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Initial report of States parties due in 1994

REPUBLIC OF MOLDOVA*

[17 January 2001]

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THE INITIAL REPORT AND THE FIRST REGULAR REPORT OF THE REPUBLIC OF MOLDOVA REGARDING THE STAGE OF IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

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Introduction

1. According to the provisions of article 40 of the International Covenant on Civil and Political Rights, and to directives regarding the form and substance of the Party States initial reports, the present combined report on the steps taken by the Republic of Moldova in implementing the Convention and on the progress accomplished between 25 February 1993 and 1 May 2000 is submitted to the United Nations Committee for Human Rights.

2. The Republic of Moldova ratified the International Covenant on Civil and Political Rights on 28 July 1990, through the Parliament's Decision No. 217-XII, that came into force on 26 April 1993.

ARTICLE 1

3. The rapid collapse of the USSR encouraged the national liberation movement in the former Moldavian Soviet Socialist Republic and eventually led to the acceleration of its self-determination process.

4. The process was a difficult and dramatic one, being always influenced by the hostilities of communist and chauvinistic mentality, by the pressure of the former union centre. That was the reason why every step of the people towards self-determination was made very cautiously, being still marked for a long time by "sovietism" and "socialism".

5. Thus, on 23 June 1990 the legislative body of the Moldavian Soviet Socialist Republic - "Supreme Soviet" - passed the Declaration on Sovereignty of the Moldavian Soviet Socialist Republic.

6. The Declaration states that the source and bearer of sovereignty is the nation and that this sovereignty is exercised in the best interest of the whole nation by the representative supreme body of the Republic's State power. The provision that "no part of the nation, no group of citizens, no political party or public organization, no other structure, no individual has the right of exercising sovereignty" is programmatic.

7. In the conditions of the Soviet Empire's agony, in order to consolidate sovereignty, the Supreme Soviet of the Moldavian Soviet Socialist Republic issued the Decree on State Flag on 27 April 1990, the Decree on State Coat of Arms on 3 November 1990 and the Decree on State Power on 27 July 1990. According to the latter, the whole power in the Republic is given to the people, but it is also directly implemented by its representative bodies. It is for the first time when the branches of State power are separated, by a normative act, in legislative, executive and judicial, and it is declared that "all citizens are equal before law and court".

8. Parliament's Resolution of 28 July 1990 regarding the Republic's adhesion to the Universal Declaration on Human Rights and regarding the ratification of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, had a great importance for the creation of rapid self-determination at that moment.

9. On 23 May 1991, the Supreme Soviet of the Moldavian Soviet Socialist Republic passed the Law regarding the change of the country's name from Moldavian Soviet Socialist Republic to the Republic of Moldova. According to this Law, sovereign State the Moldavian Soviet Socialist Republic, will be called further on - the Republic of Moldova, and the Supreme Soviet of the Moldavian Soviet Socialist Republic - the Parliament of the Republic of Moldova.

10. The first stage of the self-determination process was crowned by the Law on the Declaration of Independence of Moldova, from 27 August 1991.

11. It is significant that the Declaration of independence was passed by the Parliament that was constituted for the first time through free and democratic elections. The Declaration reaffirms the fundamental principles of the State and proclaims, in the name of the whole people, that "the Republic of Moldova is a sovereign, independent and democratic State, free to decide its present and future, without interference from outside, in conformity with the sacred ideals and aspirations of the people, formed within the historical and ethnic territory of its development".

12. The Declaration on Sovereignty of 23 June 1990, Declaration of Independence of 27 August 1991 and other domestic legal acts lay at the basis of Moldova's Constitution passed in 1994. Even article 1 of the Constitution stipulates that the Republic of Moldova is a sovereign, independent, unitary and indivisible State and the form of government of the State is the republic. "Governed by the rule of law, the Republic of Moldova is a democratic State in which the dignity of people, their rights and freedoms, the open development of human personality, justice and political pluralism represent supreme values that shall be guaranteed."

13. It is reaffirmed that national sovereignty resides with the people, and that no individual segment of population, social group, political party or private individual may exercise State's power in person (art. 2).

14. Moldova is a parliamentary republic. One-chamber Parliament is the supreme representative body of the people and the sole legislative authority of the State (Republic of Moldova Constitution, art. 60), consisting of 101 members. The deputies are voted into the Parliament through party lists, by a universal, equal, direct, secret and freely expressed vote. Through the changes introduced recently in the Constitution (Parliament's Law No. 1115 of 5 July 2000), the President of the Republic of Moldova is appointed by the Parliament.

15. According to the Constitution of the Republic of Moldova, the national economy is based on the interaction of market forces, free economic initiative and fair competition (art. 9). The economy of the Republic of Moldova is a socially-orientated market economy based on the coexistence of freely competing private and public properties and is placed at the basis of sustainable human development (art. 126). The following measures were taken in order to complete this task: creation of the legislative framework corresponding to international legal acts, structural reforms of the economy and social sector. The Constitution regulates economic relations in the society, ensures the right to property and disposes that no property may be used to encroach upon or damage the rights, liberty and dignity of people (art. 9).

16. The territorial, political and economic integrity of the Republic is not ensured at the moment, because the territory on the left bank of the river Nistru was self-proclaimed as the "Transnistrian Moldavian Republic". The policy of the separatist leaders from this region is aimed against the creation of a unitary and independent State, hoping to preserve the old ideological, legal and economic orientation. The Republic of Moldova's right to self-determination is also jeopardized by the presence in Transnistria of the Russian 14th army troops, contrary to the Constitution, that "... shall not admit the stationing of any foreign military troops on its territory" (art. 11 (2)).

17. Territorial, political and economic integrity is still not ensured in the Republic of Moldova, even though its independence was proclaimed 10 years ago. The "Moldavian Transnistrean Republic" was self-proclaimed in the region situated on the left bank of the Nistru river under the pressure of certain local separatist leaders and the protection of the former 14th army - today referred to as the Operative Group of Troops of the Russian Federation in the Republic of Moldova. Thus, at present, there are two diametrically opposite executive, legislative, judicial, legal, administrative, economic, social and educational systems in the Republic of Moldova. On the right bank of the Nistru river democratization of social and political life, efforts for real promotion and protection of human rights and freedoms are taking place, whereas on the left bank of the Nistru the process of establishing a totalitarian regime continues.

18. The authorities of the Republic of Moldova practically do not control or have any influence upon Transnistria. That is why, while ratifying the European Convention for Protection of Human Rights and Fundamental Freedoms (in force for Moldova since 1 February 1998), the Parliament of the Republic of Moldova has made a remark specifying that until the Transnistrian conflict is definitely solved, it will not be possible to ensure the observance of the Convention's provisions against the omissions and acts committed by the authorities of the self-proclaimed Nistrian Republic on the territory controlled by the separatist regime. Actually, this remark is also valid for other international treaties and conventions signed by the Republic of Moldova.

19. The Moldovan authorities have made and still are making continuous efforts to find a solution for this problem and ensure territorial integrity of the country. A set of documents were signed recently by both parties with the goal of creating an adequate political framework for a peaceful resolution of the conflict. A working mechanism was instituted (Unified Control Committee, groups of experts for elaborating the statute of Transnistria, etc.) having as their goal practical implementation of bilateral agreements. These measures are supported by the international community.

20. However, the flexible policy, goodwill and conciliatory spirit permanently manifested by the Chişinău authorities are always in conflict with the intransigence of secessionist leaders from Tiraspol, the latter continuing to strengthen their positions. Political extremism and destructive actions of the separatists led to a gross violation of the established agreements, and particularly of the agreement of 21 July 1992, signed in Moscow, regarding the principles of peaceful resolution of the armed conflict, the agreement of 20 March 1998, signed in Odessa, regarding the measures of trust and development of contacts between the Republic of Moldova and Transnistria, and also other agreements.

21. The main objective of the agreements regarding political resolution of the conflict constitutes the drafting of a special statute of the Transnistrian region. The Republic of Moldova has expressed many times its readiness to grant to the population living on the left bank of the Nistru river, constituted mainly of Moldovians (41 per cent), Ukranians (26 per cent) and Russians (24 per cent), a quite large statute of autonomy.

22. The presence of Russian military troops in Transnistria constitutes a determinative support for the extremist behaviour of separatists. According to the documents signed within the Istanbul Summit and to the Final Act of the Conference of States parties to the Treaty on Conventional Armed Forces in Europe, and also according to the Declaration of the OSCE Summit, the Russian Federation was obliged to withdraw its conventional armament and equipment limited by the Treaty until the end of 2001, with a full withdrawal of the troops from the territory of Moldova until the end of 2002. In spite of the assumed commitments, these processes are groundlessly tergiversated, and a firm political will on behalf of the Russian Federation is lacking.

23. In fact, the reality abundantly proves that both agreements signed between the Republic of Moldova and Transnistria, and also international commitments of the Russian Federation to withdraw its military troops from this region of the Republic of Moldova, and also introduction by the Russian Federation in the negotiations process of certain terms that are not certified by international law, such as "term of a common State", are all aimed at consolidating the regime from Tiraspol.

24. At the same time, on the left bank of the river Nistru, the rights and freedoms of the citizens, such as: the right to life, to physical and psychic integrity; the right to free access to justice and to a fair judgement; the right to be elected and to elect; the right to information; freedom of opinion and expression; freedom of religion; right to free movement; freedom of meetings; right to work; right to property; right to education and other rights and freedoms are violated in mass.

25. Legal regulation of natural resources use is made on the basis of the Constitution, the Law on natural resources, the Law on environment protection, the Law regarding the fund of natural areas protected by the State, the Waters Code, the Subsoil Code, the Land Code, the Forest Code and other normative acts.

26. Article 127 (3) of the Republic of Moldova's Constitution stipulates that public property belongs to the State or to the administrative territorial units, specifying that all underground resources, the air space, the waters and forests used for the benefit of the public at large, the natural resources of economic regions and continental shelf, constitute the exclusive province of public property.

27. Natural resources - private property belong to the individuals or legal entities with the right of their possession, use and disposal.

28. According to article 7 of the Law on property, land, subsoil, waters, animal and vegetal reign can be subjects of the right to property.

29. The legislation limits the right to property on natural resources.

30. According to the law, natural resources can be leased or given in concession for a certain or unlimited period of time, in these cases sublease, redemption or mortgaging of the natural resources - public property being prohibited.

31. In order to avoid the achievement of certain obligations which result from international economic cooperation, based on the reciprocal interest principle and on international law, only Parliament is qualified to approve the main directions of external economic activities (Constitution of Moldova, art. 129).

32. Regarding natural resources, national legislation stipulates that in cases when in international agreements, signed by the Republic of Moldova, other rules of natural resources use are stipulated, the latter are the ones to be enforced (Law on environment protection (art. 95), Law on natural resources (art. 32 (2)).

33. The above mentioned laws are aimed at an ample settlement of the natural resources use, protection and reproduction process, this settlement having the goal of ensuring sustainable development of the country.

34. The Law on natural resources stipulates that the latter can be used as means of labour, sources of raw materials, energy and different materials, directly in consumption and recreation, as a bank of genetic fund or source of information about the environment (art. 1, para. 2).

35. Natural resources are classified as follows:

- renewable and non-renewable;
- national and local;
- destined to exploitation;
- scare;
- protected;
- curative;
- trans-frontier.

36. The Law on natural resources incorporates basic principles of natural resources management, comprising the activity of regulation, evidence and control of their primary acquisition, use and reproduction.

37. The goal of management is:

- to ensure the natural resources non-degrade use;
- to support the activity aimed at more rational use;
- to prevent negative effects of economic activity;
- to guarantee the priority of international law in the sphere of trans-frontier natural resources use.

38. According to the legislation in force, the economic mechanism of natural resources management is a component part of a single system of national economic management and is oriented at stimulating economical use of natural renewable resources and saving those non-renewable.

39. According to the Law on environment protection (article 41(2)), the right to management of all natural resources is exercised by the Parliament.

40. The above-mentioned law establishes the rights and obligations of individuals and legal entities regarding the use and protection of the environment, natural resources and biodiversity conservation of aquatic resources and ecosystems and contains norms regarding management of wastes, toxic substances, mineral fertilizers and pesticides, regarding the responsibility for violation of legislation in this sphere. The State Ecological Inspectorate is instituted in order to exercise State control over the laws and other normative acts observance to the problems of environment protection and natural resources use (cf. 5, arts. 26-29).

41. Possession and use regulation of natural resources - public property is the responsibility of the Republic of Moldova's Government and is enforced by a qualified body and legal public administration. In order to maintain natural resources potential at a proper level, the State establishes a minimal share of the GDP, which is invested in natural resources regeneration and environment protection.

42. The legislation of Moldova establishes the civil, administrative and criminal liability for persons guilty of violating natural resources legislation.

43. According to article 2 of the Civil Code, land, forest and aquatic relations are regulated by the codes, laws and other normative documents in this sphere.

44. The Code on administrative offences establishes liability for pollution of agricultural land and other fields, for destruction of a fertile stratum of soil, for not taking measures of forestalling soil erosion, for placement, building and giving in exploitation objects that pollute soil, for violation of rules regarding evidence, storage and use of radioactive, biological, chemical and other substances, etc. (arts. 52 and 53).

45. The Criminal Code of the Republic of Moldova passed by the Law of 24 March 1961 (in Vestile RSSM, No. 10, art. 41), chapter six "Economic offences" (arts. 166-171 and 173), establishes different penalties for crop deterioration and plantation damage, for unlawful cutting of forests, deliberate imprudent destruction of or substantial damage to large forest tracts, illegal hunting, unlawful engagement with fishing or other water exploitation businesses, violation of rules regarding pest control and plant diseases.

46. At the same time, the State guarantees participation of the public in taking decisions regarding the use of natural resources and in exercising public control over the observance by private individuals and legal entities of legislation regarding nature protection, on the basis of an ample information of the population and of ensuring citizens' access to any information of public interest (Republic of Moldova Constitution, arts. 34, 37; Law on natural resources, art. 29; Law on access to information of 11 May 2000).

47. The Republic of Moldova was one of the first States to ratify the Arhus Convention on access to information, justice and participation of public decision-making in the environmental sphere.

48. With no conditions to ensure territorial, legal and economic integrity of the country (left bank of the river Nistru) it is very difficult to achieve efficient use and conservation of natural resources, protection of the environment, consequential use of environment management instruments.

49. The Republic of Moldova bears no responsibility for the administration of non-self-governing and trust territories.

ARTICLE 2

50. The rights organically bound to the person (civil rights) and the rights regarding his participation in political life (political rights) are guaranteed by the Supreme Law of the Republic of Moldova, comprising:

- right to life, physical and mental integrity, prohibition of degrading tortures (art. 24);
- individual freedom and personal security (art. 25);
- guarantee of the right to defend oneself upon infringement of rights and freedoms (art. 26);
- right to move freely (art. 27);
- right to personal, family and private life (art. 28);
- inviolability of residence, privacy of correspondence and communication (arts. 29 and 30);

- freedom of conscience (art. 31);
- freedom of opinion and expression (art. 32);
- right of access to information (art. 34);
- right of petitioning (art. 52);
- right of persons aggrieved by public authority (acknowledgement of those rights, cancellation of the ruling and damages payment) (art. 53);
- right to citizenship and right of protection by their State both at home and abroad (arts. 17 and 18);
- right to marriage (art. 48);
- right to vote and be elected (art. 38);
- the right of administration (access to a public office or position) (art. 39);
- the freedom of assembly (art. 40);
- the freedom to associate in parties and other social and political organizations (art. 41).

51. The Constitution of the Republic of Moldova stipulates: "... the dignity of people, their rights and freedoms, the open development of human personality, justice and political pluralism represent supreme values, that shall be guaranteed" (art. 1 (3)).

52. In order to ensure the implementation of these desiderata, the Constitution stipulates that all citizens of the Republic of Moldova are equal before the law and public authorities, "without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin" (art. 16 (2)).

53. Every citizen has the right to obtain effective protection from competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests. No law may restrict the access to justice" (art. 20).

54. The rights and freedoms of a person before law and public authorities, guarantees of their implementation, regardless of race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth, social origin, citizenship, occupation, residence, etc. are regulated by a number of other normative documents of the Republic of Moldova (Law on judicial system of 6 July 1995 (art. 8); Civil Procedure Code (art. 6); Criminal Procedure Code (art. 8); Electoral Code (art. 3); Law on public service (art. 13); Law on wages (art. 3); Law on health protection (art. 17); Law on education (art. 6); Law on culture (art. 11); Law on preventive arrest (art. 11 (4)) and others.

55. Article 25 of the Supreme Law guarantees individual freedom and personal security to be inviolable. According to the above-mentioned article search, detention in custody or arrest of a person shall be permitted only if based on the authority of law. The period of detention in custody by competent authorities may not exceed 24 hours.

56. Article 6 "Freedom and security of the person" (Criminal Procedure Code) reflects constitutional stipulations, stating that no person shall be deprived of his her freedom except in conditions stipulated by law and respecting the procedure established in the Criminal Procedure Code in cases when the person:

- is legally detained according to the sentence passed by a competent court;
- was legally arrested for not executing a decision previously passed by court in accordance with the law;
- was held legally or arrested in order to be brought before the competent court, when there are grounds to suspect that he has committed a crime or when there are reasons to believe that it is necessary to hinder the person from committing a crime or from escaping after committing it.

57. The legislation of the Republic of Moldova guarantees the right to vote to all its citizens having attained the age of 18 on or by the voting day. The only exceptions are persons banned from voting by law. Elections in Moldova are free and they are held at regular intervals and based on universal, equal, direct, and free suffrage (Republic of Moldova Constitution, art. 38).

58. The citizens of the Republic of Moldova have the right of participating in the administration of public affairs, either directly or through their representatives. Access to a public office or position is guaranteed by law to all citizens of the Republic of Moldova. The person holding a public position must possess the State language in limits stipulated by the Law regarding the use of languages on the territory of Moldova (Republic of Moldova Constitution, art. 39; the Law on public service, art. 13).

59. In the Republic of Moldova public education is lay, refractory to ideological, party, racial and nationalist discrimination (Law on education, art. 4 (3)).

60. Article 11 of the Law on culture stipulates that cultural activity constitutes an inalienable right of every person, regardless of ethnic or social origin, language, sex, political, religious and other beliefs, residence, wealth, education, profession and other circumstances. According to the above-mentioned law: "human rights in the sphere of cultural activity constitute a priority and cannot be limited by the State or non-State bodies".

61. The Law regarding the use of languages spoken on the territory of Moldova (art. 4) guarantees the use of Ukrainian, Russian, Bulgarian, Hebrew, Yiddish, Romany languages and also languages of other ethnic groups, living on the territory of the Republic, in order to meet their national and cultural needs.

62. In court trials citizens have the right to choose the language that they know and to employ an interpreter.

63. The State ensures non-discriminatory access of young people to concert and exhibition halls, studios and laboratories of creation and innovation, according to the normative documents in force (Law on youth of 11 February 1999).

64. Moldova's legislation guarantees equal legal rights of men and women. This refers to the foundation of family, children education and care, family relations, access to justice, labour, information, right to vote, free movement etc. (see also article 3 of the present report).

65. By guaranteeing to the citizens the freedom of conscience, the Constitution obliges them, at the same time, to manifest it in a spirit of tolerance and mutual respect. In their mutual relationships religious cults are forbidden to use, express or incite to hatred or enmity (art. 31).

66. The freedom of publicly expressing their thoughts and opinions by way of word, image or any other means possible, guaranteed by the Supreme Law, may not harm the honour, dignity or rights of other people to have and express their own opinions or judgements. The law shall forbid instigation to aggression, war, ethnic, racial or religious hatred, incitement to discrimination, territorial separatism, public violence (art. 32). (See also article 18 of this report.)

67. The State protects the child from any debasing actions and behaviours against him. Article 6 of the Law regarding the rights of the child stipulates that the child is protected from any form of discrimination. The Law prohibits cruel, rude, contemptuous treatment, insults and maltreating of the child. It is also prohibited to involve a child in criminal activities, to encourage consumption of alcoholic beverages, drugs and psychotropic substances, etc.

68. According to the Criminal Code of the Republic of Moldova (art. 71), deliberate actions directed at the incitement to ethnic or racial enmity, humiliation of honour and national dignity, as well as direct limitation of rights or establishment of direct or indirect advantages to certain citizens depending on their racial or national origin shall be punished by imprisonment. According to the Criminal Procedure Code: "commission of a crime with a national character, racial hatred or despise" is considered an aggravating circumstance in establishing the punishment (art. 38).

69. The Law on preventive arrest stipulates that the persons detained in places of preventive arrest have a number of obligations and also benefit from the rights and freedoms established by the legislation for all citizens of Moldova. Detention of persons in places of preventive arrest is executed on the basis of the principle of observing the Constitution, the requirements of the Universal Declaration on Human Rights, other legal norms and international standards regarding the treatment of the detainees and it cannot be cumulated with deliberate actions which cause physical and moral suffering or offend human dignity (art. 11 (1 and 3)).

70. The citizens of the Republic of Moldova equally benefit from all social, economic, political and personal rights and freedoms, proclaimed and guaranteed by the Constitution and by other laws, regardless of the basis for obtaining citizenship. "... All citizens of the Republic

of Moldova are equal before the law and public authorities, benefit equally from all social, economic and politic rights and freedoms proclaimed and guaranteed by the Constitution, other laws and by international agreements signed by the Republic of Moldova" (The Law on citizenship from 2 June 2000, article 6).

71. Except in cases where the law has different rulings aliens and stateless persons shall enjoy the same rights and have the same duties as the citizens of the Republic of Moldova (Republic of Moldova Constitution, article 19, paragraph 1).

72. According to the legislation in force, aliens and stateless persons do not have the right to vote and be elected, to assume public and military positions, to take part in the referendum. The legal status of aliens and stateless persons on the territory of Moldova is regulated by an organic law and international legal documents signed by the Republic of Moldova.

73. According to the Republic of Moldova Law regarding legal status of aliens and stateless persons in the Republic of Moldova (art. 1 (3)), aliens and stateless persons are equal before the law and public authorities, "without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political affiliation, wealth or social origin".

74. The guarantee of the exercise of rights and freedoms by aliens and stateless persons is also ensured by article 4 (2) of the Constitution, which stipulates that wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and its own national laws, priority shall be given to international regulations. This constitutional norm is directly introduced in the Law of the Republic of Moldova regarding legal status of aliens and stateless persons in Moldova (art. 26).

75. Due to the creation in 1998 of the Parliamentary Lawyers Institute - The Centre for Human Rights in Moldova - the possibility of practical guarantee of rights and freedoms of aliens and stateless persons has substantially increased. Ombudsmen from Moldova have the right to examine "... notifications submitted by aliens and stateless persons who permanently or temporarily live in Moldova, and whose rights were violated in the Republic of Moldova (art. 13). The above-mentioned Law allows Parliament Lawyers to directly apply international treaty norms signed by the Republic of Moldova when National Laws are in breach with them (art. 10 (2)).

76. During its activity, the Centre for Human Rights in Moldova has received only several not essential notifications from aliens. They basically refer to the formality of processing documents, which confirm the right to living space and that were solved together with local public administration.

77. The Republic of Moldova has ratified the International Covenant on Civil and Political Rights on 28 July 1990 (for the Republic of Moldova in force from 26 April 1993). In accordance with its provisions, which stipulate that the State undertakes the necessary steps to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant, the Parliament started to elaborate and pass respective acts. At the same time, elaboration of the new Constitution bill started.

78. In the period between the ratification of the Covenant and the coming into force of the Constitution, there was a number of laws passed, destined to harmonize with the rights stipulated in the Covenant. Thus, on 1 October 1990, the Parliament passed the Law on legal regime of extraordinary situation and on special forms of governing in the Moldavian Soviet Socialist Republic, on 5 June 1991 - the Law on citizenship of the Republic of Moldova (the Law on citizenship in new edition from 2 June 2000), on 17 September 1994 - the Law on parties and other social and political organizations (in new edition from 5 July 2000), on 19 July1994 - the Law on petitioning etc.

79. Also in that period of time, the draft of the judicial and legal reform was preparing: on 21 July 1994 the Parliament passed the Framework-Document on Judicial and Legal Reform. According to this document, the elaboration and implementation of measures regarding decentralization of the judicial system and creation of four types of courts of law was pursued: municipal courts, district courts, tribunals, the Court of Appeal; the Supreme Court of Justice. They are destined to ensure and guarantee the observance of individuals rights and freedoms by strengthening the judges' independence, to accelerate the process of reforming the public prosecution system, to amend a number of articles from the Civil Code, Civil Procedure Code, Criminal Code, Criminal Procedure Code, Marriage and Family Code etc.

80. Also the Law on judicial system was passed on 6 July 1995.

81. At the same period of time, the Parliament decides Moldova's adhesion to a number of international instruments and declarations regarding human rights and freedoms, such as the Final Act of the Conference on Cooperation and Security in Europe, the Paris Charter for a New Europe, the Convention on Political Rights of Women, the Convention on Struggle Against Discrimination in the Sphere of Education, the Declaration on Granting Independence to Colonial Countries and Nations etc.

82. The Constitution of the Republic of Moldova, passed on 29 July 1994 constituted a crucial moment in passing a number of legislative and other measures regarding the implementation of rights stipulated in the Covenant. The Constitution created real premises for further improvement of national legislation on human rights and freedoms.

83. Title II of the Supreme Law is dedicated to fundamental rights, freedoms and duties of the citizens. In fact this Title reproduces rights and freedoms stipulated in the Universal Declaration of Human Rights and in other international instruments ratified by the Republic of Moldova. A basis for adjusting national legislation to international standards was thus established. Later the Parliament passed about 20 Laws that explicitly regulate different aspects of human rights and freedoms. It is certain that a national framework of protection and promotion of human rights, based particularly on international legal instruments, is clearly seen in the Republic of Moldova.

84. As a conclusion, we would like to mention the main provisions stipulated in the Constitution that create possibilities to pass certain legislative measures in order to practically implement stipulations from the Covenant: political pluralism; separation and cooperation of the legislative, executive and judicial branches of power; the right of all citizens to protection, development and expression of their ethnical, cultural, religious and linguistic identity etc.

85. Other legislative accomplishments in the field of human rights and freedoms are:

- abolishment of the capital punishment;
- subordination of the penitentiaries to the Ministry of Justice;
- appointment of the judges for a 5-year term, after this term expires they pass a qualification test and then they are appointed for a period until they reach the age limit. This provision guarantees the citizen's right to an independent court;
- use of the contradictoriality principle;
- issuance of arrest warrants by judges, etc.

86. The Republic of Moldova Constitution guarantees to every person the right to obtain effective protection from competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests. No law may restrict the access to justice (art. 20, alin. 1 and 2).

87. Also, the Constitution guarantees the right of defence. It is stipulated that everybody has the right to respond independently by appropriate legitimate means to an infringement upon his/her rights and freedoms (art. 26, alin. 1 and 2).

88. Any person, whose rights have been trespassed upon in any way by public authority through an administrative ruling or lack of timely legal reply to an application, "is entitled to obtain acknowledgment of those rights, the cancellation of the ruling and payment of damages. The State is under patrimonial liability as foreseen by the law for any prejudice or injury caused in lawsuits through errors of the police or the judiciary" (Republic of Moldova Constitution, article 53).

89. As foreseen by the Supreme Law of the Republic of Moldova, persons may be arrested only under warrant for a maximum time limit of 30 days, the arrested may contest the legality of the warrant and lay a complaint before a court judge who is bound to reply by way of a motivated decision. The time limit of detention may be extended to 6 months and in exceptional cases, if approved by decision of Parliament, to 12 months. The person detained in custody or arrested shall be informed without delay of the reasons for his detention or arrest, as well as of the charges pressed against him/her, which may take place only in the presence of a lawyer, (Constitution of the Republic of Moldova, article 25 (4, 5 and 6)).

90. Article 6 (3) of the Criminal Procedure Code stipulates that the held or arrested person shall be informed in a maximum time limit of 3 hours and in a language he/she can understand, of the reasons for his/her holding or arrest and the legal classification of the crime the person is suspected or accused of. The person is informed of all his/her legal rights before performing any procedural action with his participation. Every person deprived of his/her freedom by arrest or detention, has the right to declare a recourse at the competent court, in order for the court to statute, in as short a period of time as possible, the legality of the arrest or detention and to order the person's freedom if arrest or detention is illegal.

91. During criminal procedure no one may be subjected to torture or to inhuman or degrading treatment.

92. According to the above-mentioned article, any person who is a victim of an illegal arrest or detention shall be compensated according to the law.

93. Compensation of the damage caused by illegal actions committed by the police criminal investigation bodies and criminal investigation bodies, by the public prosecution system and courts of law, is foreseen by the respective Law of the Republic of Moldova No.1545-XIII from 25 February 1998. According to the provisions of this Law, moral and material damage is compensated as a result of (art. 1):

- illegal holding, illegal preventive arrest, illegal trial by criminal law, illegal sentencing;
- illegal searching, seizing, illegal sequester of real estate, illegal dismissal from the assumed position and other proceeding actions that restrict the rights of persons, during criminal case investigation or trial;
- illegal subjection to administrative arrest or correctional work, illegal confiscation of estate, illegal application of a fine;
- taking operative investigation measures by infringing upon current law provisions;
- illegal seizure of bookkeeping documents, other documents, money, stamps and freezing bank accounts.

94. The caused damage is repaired totally, regardless of the guilt of the officials of police criminal investigation bodies, criminal investigation bodies, by the public prosecution system and courts of law (art. 2).

95. The Civil Procedure Code of the Republic of Moldova in article 4 stipulates that every individual and legal entities has the right to an effective satisfaction by competent courts of law of a legal suit against actions that violate his/her legitimate rights, freedoms and interests. The defence of civil rights is accomplished according to the rules established by the competent court of jurisdiction or chosen arbitrators through:

- recognition of these rights;
- restoration of the situation existing before the infringement of a right and also by ceasing actions that violate a right;
- compelling of the person infringing upon a right to execute his/her duty in nature;
- cessation or modification of the legal relation;

- compelling the person who infringed upon a right, to pay the caused damages and in cases stipulated by the legislation or agreement - penal clause (fine, delay penalties), also by other means stipulated by the Law (Civil Code, art. 6).

96. Moldova's legislation guarantees that a competent authority shall decide over person's rights to effectively defend himself. According to the Law on petitioning, petitions within which an act, decision, action or inaction of an administrative authority or official that harmed legitimate rights and interests of the petitioners is attacked, are addressed to higher level authority of first stage. Petitions that attack decisions of organizations that do not have superior bodies of their own and decisions of territorial executives, mayoralties of cities of republican subordination, are addressed to the courts of law (art. 7, paras. 2 and 3). The authority or official to whom petitions were addressed are obliged to ensure re-establishment of the damaged rights, compensation in the conditions of law of the caused damage and enforcement of decisions passed as a result of the petition's examination (art. 12, letter "c").

97. The above-mentioned Law stipulates that petitioners, who consider that their rights are infringed upon and do not agree with the decisions of the authority or official that examined the petition, "have the right to address the court of law within one month from the day when the decision was communicated or, if in that period of time persons did not receive an answer - from the day when the answer had to be received." (art. 16, para. 1).

98. Article 27 (1) of the Law on Public Prosecution Office, compels the Prosecutor to take measures, as established by law, in order to restore to the citizen his/her rights infringed upon through illegal actions of the Prosecution's Office staff. Also, the prosecutor has the right, as stipulated in the law, to appeal with recourse a decision or ruling of the court in the examined case with his participation in other cases stipulated by law, if he considers it non-legitimate or ill-grounded (art. 30).

99. An effective defence of rights is also consolidated by the Law on contentions administrative matter. In accordance with article 1 (2) of that Law, "every person who considers that one of his/her rights, recognized by the law, was infringed upon by a public authority through an administrative document or because of not solving the claim in legal term, may address the competent court of contentions administrative matter in order to obtain cancellation of that document, recognition of the claimed right and the compensation of the caused damage".

ARTICLE 3

100. Republic of Moldova Constitution stipulates that: "All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political choice, personal property or social origin" (art. 16 (2)).

101. The Constitutional norm provides that: "The family is founded on the freely consented marriage of husband and wife, on the spouses equality of rights and on the duty of parents to ensure their children's upbringing and education" (art. 48 (2)).

102. The Marriage and Family Code of the Republic of Moldova contains a number of provisions regarding the guarantee of equal rights of men and women. Article 3 of the Code stipulates that "Pursuant to the equal rights of men and women, they have equal personal and property rights in their family relations." This norm is further developed in article 4: "Direct or indirect limitation of rights is not permissible, no direct or indirect advantage in conclusion of a marriage or in family relations may be established with respect to heritage, social and financial position, race and nationality, sex, education, language, attitude to religion, occupation, residence or other circumstances."

103. In order to exclude any pressure and to guarantee the creation of a sustainable family, article 15 of the Marriage and Family Code stipulates that "The parties must meet the minimum age requirement and mutually consent to marriage in order to enter into a marriage." Spouses have equal rights and duties. Spouses solve matters concerning education of children and other family issues together. Each spouse is free to choose his or her occupation, profession, and domicile (art. 20).

104. Marriage and Family Code also regulates the rights and duties of the spouses in what concerns their children. According to article 57, the father and the mother have equal rights and duties in what concerns their children. Moreover, this article guarantees to the parents equal rights and duties in what concerns their children also in cases when their marriage has been dissolved (see also article 23 from this report).

105. Article 6 of the Law on the education stipulates that the right to education is guaranteed, without any distinctions as to nationality, sex, race, age, origin and social situation, political affiliation, criminal antecedents.

106. The legislative system of the Republic of Moldova guarantees equal rights of men and women in courts of law, justice being based on the principle of equality of all citizens before law and court, without any distinctions as to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, wealth or social origin or other circumstances (Civil Procedure Code, art. 6; the Law on judicial system, art. 8).

107. In order to exclude discrimination of women regarding their employment, the Criminal Code of Moldova (art. 140) establishes criminal punishment for refusal to employ or dismissal of a pregnant woman or a mother suckling a baby.

108. Legislative measures were also taken in the sphere of women's promotion in the field of social activity. According to the article 7 of the Law on parties and other social political organizations, "... parties and other social political organizations will promote the principle of equality between women and men in decision-making bodies at all levels". The Electorate Code of the Republic of Moldova stipulates that electoral lists shall comprise both sexes in the proportion of at least 30 per cent.

109. The objective of the national legislation concerning rights and freedoms of women during last three-four years is to implement and accomplish the principle of equality of sexes and to prevent women's discrimination. Simultaneously with other adopted measures, a practical and

important step in this direction constitutes the elaboration of a Plan of priority actions regarding the improvement of women's situation and increasing their role in the society (the Decision of the Republic of Moldova Government No. 39 from 15 January 1998). This Plan of actions is aimed at promoting a unitary policy, that would ensure and guarantee the equality of men and women. The Sector of family and child social protection was created within the Government, with the competence of their protection, including tasks of coordinating the State structures responsible for the amelioration of the women's statute in Moldova. Another Government Decision (No. 74 from 2 February 1999) instituted a Governmental Committee for women's problems, whose members are representatives of different State structures and whose purpose is to coordinate the activity of the decision-making bodies that are responsible for ensuring an improvement of women's situation in the society.

110. However, an effective equality of women and men is not yet a satisfactory reality. From the total number of petitions submitted in 1999 to the Centre for Human Rights of Moldova (the Institution of Parliamentary Lawyers (Ombudsmen)), 39 per cent belong to women tackling a multitude of problems that refer to the use of their rights and freedoms.

111. The condition of women in the Republic of Moldova is mainly determined by the transition to a market economy. The prolonged economic decline, amplified by a rapid decline of life standards, has affected the situation of women in the society.

112. At the moment women constitute 52 per cent of the country's population, 51 per cent of total labour force and supply 50 per cent of national income, but constitute only 9 per cent in the Parliament. Although insufficiently, women are still represented at all levels of executive power in the Republic of Moldova.

113. According to recent statistical data, the number of employed women has been exceeding that of men. Still, the percentage of women in business is small - only 5 per cent. Women's wages constitute only 70-80 per cent of men's wages.

114. Because of insufficient work places on the internal market, women are forced to go abroad, being often exposed to maltreatment and prostitution, especially young women. Under the pretext of employment outside the country, the phenomenon of human traffic, particularly women and children, is spreading. This led to the necessity of hindering this kind of offences. As for the children, the Criminal Code (art. 112^{1}) stipulates that taking a child out of the country using counterfeit documents or using any other illegal means, as well as their abandonment abroad, is to be punished by imprisonment for a period of 5 to 12 years.

115. The draft of completing the Criminal Code passed on 24 March 1961 (until the new Code is passed) with a new article (105^{1}) "Illicit human traffic" is proposed. It has the following content: "Recruitment of persons with the purpose of their transfer abroad with without their consent, with without the purpose of their further sale or other way of delivery of a person to a third party in order to be sexually exploited, used in the porno industry, enslaved, used in armed conflicts, exploited as labour force or delivered in other ways to someone's servitude, - is to be punished by imprisonment for a period of three to seven years or by a fine in the amount of one thousand and five hundred to three thousand times the minimum wage.

116. The same acts committed in regards to a minor, or repeatedly, or as a result of a pact reached in advance by a group of people, or if the victim is in a material or any other form of dependence in relation to the guilty party, - is to be punished by imprisonment for a period of 5 to 10 years.

117. The new Criminal Code will include similar provisions.

118. Many women refuse to use their right to motherhood and reproduction, because of insufficient allocations and benefits for raising children. As a result, the birth rate is declining.

119. The phenomenon of violence towards women in family and society, particularly physical, economic, psychological and sexual violence is becoming more pronounced. That is why, in order to ameliorate the situation and prevent the extension of that process, the Moldovan Government proposed many drafts to be passed regarding completion and amendment of a number of normative documents in the sphere. It is proposed to supplement the Civil Procedure Code from 26 December 1964 with a new chapter (33[1]), dedicated entirely to violence in the family. According to this chapter, any member of the family, concubine, guardian or quasi-guardian has the right to submit to the court a request of receiving help in case of violence in the family, before any judiciary debates between the parties. Such an action can also be advanced at the request of the prosecutor or guardianship authority. The Court of jurisdiction is under the obligation to examine the claim immediately and it is prohibited to put off granting of the requested help on the basis of judiciary debates that shall take place between the parties.

120. If the claim is recognized as a motivated one, the court of law will adopt a decision of victim's protection by:

- prohibiting to further commit violent actions;
- moving the party that committed violence out of the plaintiff's dwelling;
- keeping the party that committed violence at a reasonable distance from the dwelling, establishing this distance in the judicial ruling;
- establishing a temporary regime for visiting juvenile persons;
- prohibiting the party that committed violence, to appear at the spouse's place of work and at the children's place of study;
- prescribing a treatment or certain consultations to the party that committed violence;
- granting other necessary help for protecting family members, including juvenile persons.

121. Execution of the court's ruling is implemented by the police according to the legislation in force. The ruling is usually issued for one year, but in the cases when threatening, following or cruel behaviour in the family continues, the plaintiff may appeal to the court of law for prolonging the term.

122. It is proposed to complete points 6 and 24 of the article 12 from the Law on Police (18 December 1990), with concrete stipulations regarding cessation of violence in the family and also providing a lawyer in case of violence in the family in order to execute the rulings of the court.

123. Proposals are also made for completion and amendment of the Marriage and Family Code from 26 December 1969. Article 6 is completed with paragraph 4 and has the following content: "Violence between members of the family and persons who live together is not allowed. Coercion and threats aimed at maintaining control over other members of the family leads to a liability in accordance with the legislation in force." Paragraph 2 of the article 36 is completed with the following provision: "The court, upon establishing real violence in a family, must take necessary measures of protection against violence, in accordance with the Civil Procedure Code, until the divorce decision is passed."

ARTICLE 4

124. "The exercise of certain rights or freedoms may be restricted only under the law and only as required in cases like: the defence of national security, of public order, health or morals, of citizens rights and freedoms, the carrying of the investigations in criminal cases, preventing the consequences of a natural calamity or of a technological disaster. The restrictions enforced must be in proportion to the situation that caused it, and may not affect the existence of that right or liberty" (the Republic of Moldova Constitution, article 54 (1 and 2)).

125. In accordance with the Law regarding the legal regime of the extraordinary situation and special forms of governing in the Republic of Moldova (art. 1), an extraordinary situation constitutes a provisional measure, decreed by the Parliament or the President of the Republic of Moldova according to the Constitution and to the present law "in order to ensure the security of Moldovan citizens, legal order in cases of natural disasters, grave accidents, catastrophes, epidemics, epizooties, mass disturbances and other exceptional situations".

126. Neither the Constitution, nor the Law regarding the legal regime of the extraordinary situations and special forms of governing in the Republic of Moldova, nor other laws or normative papers of the Republic of Moldova revoke or restrict, in case of public danger, the exercise of the rights stipulated in articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18 of the Covenant. Non-abusive implementation of those provisions is a part of the commitments assumed by the Republic of Moldova at the moment of ratification of the international treaties. Restriction of some rights and freedoms is made together with rights and duties stipulated in article 55 (2) of the Republic of Moldova Constitution, which states "... respect is due to all legitimate rights and interests, to the dignity of other citizens".

127. From 26 April 1993, when the International Covenant on Civil and Political Rights came into force for the Republic of Moldova, the legal regime of extraordinary situations was never decreed, that is why there was no need to enforce provisions stipulated in article 4, paragraph 3 of the Covenant.

ARTICLE 5

128. According to the Constitution of the Republic of Moldova (art. 4), constitutional provisions for human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration of Human Rights and with other conventions and treaties endorsed by the Republic of Moldova. "Wherever disagreements appear between conventions and treaties signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations."

129. Through article 8 of the Constitution, the Republic of Moldova pledges to respect the Charter of the United Nations and the treaties to which it is a party. The coming into force of an international treaty containing provisions contrary to the Constitution shall be preceded by a revision of the latter.

130. "... No laws or other legal acts and regulations in contradiction with the provisions of the Constitution may have any legal power" (Republic of Moldova Constitution, article 7).

131. A particular role in observing the provisions of article 5 of the Covenant, is played the Constitutional Court that guarantees the Constitution's supremacy and that "... enforces on notification constitutionality control over laws, regulations and orders of the Parliament, Presidential decrees, decisions and orders of the Government, as well as international treaties endorsed by the Republic of Moldova" (the Republic of Moldova Constitution, article 135 (a)). The decisions of the Constitutional Court are final and cannot be appealed against.

132. Article 4 of the Constitution is enforced by the courts of law and the public prosecution system.

133. Also parliamentary lawyers of the Republic of Moldova are authorized to directly implement in their activity the norms of International Law, when national legal acts are contradicted by them (the Law on parliamentary lawyers, article 10 (2)).

134. According to the above-mentioned Law (art. 31), parliamentary lawyers are authorized to notify Constitutional Court "... in order to enforce constitutionality control over laws, orders of the Parliament, the Presidential decrees, decisions and orders of the Government, over their compliance with general accepted principles and international legal acts on human rights". During their activity, parliaments lawyers, addressed the Constitutional Court many times with this problem, restoring about 800,000 citizens in their constitutional rights.

ARTICLE 6

135. Article 24 of Moldova's Constitution expressly regulates and guarantees three fundamental rights that cannot be mixed up from the legal point of view, even though they are strongly connected among them. These rights are: the right to life, right to physical integrity and right to mental integrity. The Constitution of the Republic of Moldova protects the right to life of a person only in its physical meaning and this solution is more efficient from a legal point

of view. The right to life of every person is also guaranteed by the Criminal Code that contains provisions regarding crimes against life, such as a deliberate murder committed with aggravating circumstances (art. 88).

136. Deliberate murder committed:

(a) for profit;

(b) out of criminal motives;

(c) connection with the performance by the victim of his official or public duty;

(d) against two or several people;

(e) on a woman whose pregnancy was known to the guilty party;

(f) with extreme cruelty or by methods which endanger the lives of many people;

(g) committed for the purpose of concealing another crime, facilitating the commission of such a crime or involving rape;

(h) by an extremely dangerous recidivist, or by a person who previously committed a crime set forth in present article or in article 89 of the present Code;

(i) by taking advantage of the helplessness of the victim to defend himself herself;

– is to be punished by life imprisonment or by imprisonment for a period of 10 to 25 years.

137. Deliberate murder, committed without aggravated circumstances stipulated in article 88 of the present Code,

– is to be punished by imprisonment for a period of 6 to 20 years (art. 89).

Murder committed in a state of sever emotional agitation (art. 90).

Deliberate murder committed in a state of sever emotional agitation which has arisen suddenly or caused by violence or a gross insult on the part of the victim or caused by other unlawful acts on the part of the victim, if such acts involved or could have involved heinous consequences for the guilty party or his relatives,

– is to be punished by imprisonment not exceeding 5 years.

Murder committed when the limits of necessary defence are exceeded,

– is to be punished by imprisonment not exceeding 2 years (article 91 of the Criminal Code).

138. Murder committed by imprudence,

– is to be punished by imprisonment not exceeding 3 years (art. 90, para. 1, CC).

139. The carelessness manslaughter of two or more persons committed by imprudence,

– is to be punished by imprisonment not exceeding five years (art. 90, para. 2, CC).

140. The deliberate murder by mother of her own newborn infant during birth or immediately after its birth,

– is to be punished by imprisonment not exceeding three years (art. 92, CC).

141. The inducement to commit suicide or to make an attempt of suicide of a person in a position of material or some other form of dependence on the guilty party, or by cruel treatment, or by systematic undermining of the personal dignity of the victim,

– is to be punished by imprisonment for a period of one to five years (art. 94, para. 1).

142. The inducement of a person to commit suicide or to make an attempt of suicide by systematic persecution, slander, insult on the part of the guilty party, if the victim was not in a position of material or some other form of dependence on the guilty party,

– is to be punished by imprisonment for a period of one to three years (art. 94, para. 2).

143. In 1999, tribunals sentenced 150 persons for murder committed on the basis of article 88, of the Criminal Code, 3 persons were acquitted and 10 were sent to psychiatry institutions.

144. In 1999 law courts have sentenced 161 persons for murder committed on the basis of article 89, 8 persons were acquitted and 3 were sent to psychiatry institutions.

145. Many recourses were brought to Criminal Collegium of the Supreme Court of Justice. For instance, by the decision of the Criminal Collegium of the Supreme Court of Justice No.1 c/a-91199 from 21 September 1999, the recourse was repelled because the defendant's actions were accurately qualified on the basis of the article 88, paragraph 6 CC and the punishment was established in accordance with articles 36, 37, 38 CC.

146. As the sources of the Ministry of Internal Affairs state, in 1999, 17,701 persons committed crimes in the Republic of Moldova, 3,908 of which committed serious crimes, 14,920 of which were sent to the law courts. As for age categories, the situation is the following: - murders and attempts to commit murder - 233, 3 of which committed by persons of 14-15 years old, 10 - by persons of 16-17 years old, 64 - by persons of 18-24 years old, 37- by persons of 25-29 years old and 119 - by persons of over 30 years old. Among persons, who committed murders or attempts to murder, 29 were workers, 2 - farmers, 6 - civil servants and 186 - unemployed.

147. In comparison with 1998, the number of persons who committed homicides decreased by 31 in 1999. According to statistics in 1998, on the territory controlled by constitutional authorities, 8,210 serious crimes were committed, 266 of which were committed by using fire arms, grenades and explosive substances. At the same time, delinquency level in Chisinau is twice higher than in other areas of Moldova and represents 178.1 crimes per 10,000 of inhabitants in comparison with 95.7 in the Republic. In 1998, as a result of deliberate crimes 789 persons died, 400 of which died as a result of murders and attempts to murder. The number of suicides has considerably increased in past years (15.7 cases of suicides per 100,000 of inhabitants). This situation is determined by economic difficulties of the transitory period.

148. In 1998, 492 persons died in road accidents and the main majority died because of the bad technical condition of roads or vehicle.

149. As a result of the armed conflict in 1992, Moldovan State lost control over the territory on the left bank of the river Nistru. The regime, established in Transnistria, persecutes citizens for manifesting certain political positions, by using means not compatible with mechanisms of a state based on law. Dismissals based on political reasons and intimidation became usual in the area controlled by the separatist regime. Personal security is also affected by the fact that paramilitary structures of Cossacks remained on the left bank of Nistru, and a part of the armament is kept by the population. The delinquency level has considerably increased in this region during last years. The Tiraspol Administration offers no information regarding the degree of delinquency, the number of attacks on a person, etc. But taking into consideration the general situation, it is possible to affirm that fundamental human rights are often breached upon in Transnistia, and the situation concerning personal security is much more serious than that on the remaining territory of the Republic of Moldova.

150. The defining elements of the right to life are materialized, first of all, by the fact that no one shall be arbitrarily deprived of his life.

151. Article 24, paragraph 3 of the Constitution stipulates that until its final prohibition, capital punishment may be applied only if it is based on a sentence passed in a court of justice. This article should be modified, because capital punishment is abolished on the basis of the Law on amendment and completion of the Criminal Code, Criminal Procedure Code and Code of the execution of criminal law penalties No. 677 from 23 November 1995, published in the Official Monitor of the Republic of Moldova No. 8-9 from 8 February 1996.

152. On the basis of this law, article 22 of the Criminal Code regarding the death penalty was excluded and article 23, paragraph 1 was amended: "In case of committing certain crimes foreseen by the Special Part of the Criminal Code life imprisonment may be applied". In paragraph 2 the text "capital punishment is established" - is substituted by the text "life imprisonment is established".

153. Article 4 of the Law mentioned above stipulates that the persons sentenced to the exceptional measure - death penalty - before this Law came into force, and if this sentence was not commuted into imprisonment by pardon or amnesty and the sentence was not carried out, are considered sentenced to life imprisonment.

154. Also, article 63, paragraph 5 of the Code of the execution of criminal law penalties (22 June 1993) has modified and namely: "In prisons the sentence is carried out by the following persons: persons declared as extremely dangerous recidivists, persons whose death penalty was commuted into imprisonment by pardon or amnesty and persons sentenced to life imprisonment." Also Chapter 21 regarding the method and conditions of carrying out the death penalty, from the above-mentioned Code, was excluded.

155. Interdiction of the death penalty expresses political will of the majority of Moldova's population, because death penalty leads to irreparable effects. The history demonstrated that many times capital punishment was a result of some serious judicial errors.

156. Criminal liability of minors is foreseen by the legislation of the Republic of Moldova. Thus, the Penal Code of the Republic of Moldova establishes in article 10 liability for persons who reached the age of 16 at the moment of the crime. Children under 14 years of age are not under criminal liability. Persons, aged 14 to 16 who committed crimes, are under criminal liability only for murder, deliberate gross bodily and health harm that led to health disorder, rape, burglary, robbery, theft, misappropriation of property on a large scale and extremely large scale, hooliganism with serious and extremely serious consequences, deliberate destruction and deterioration of property, misappropriation of narcotic substances and guns, munitions and explosives, as well as deliberate commission of certain actions that could cause train derailment.

157. Article 23, paragraph 2 of the Criminal Code foresees that for persons who did not reach the age of 18 at the moment of committing the crime, imprisonment cannot exceed 10 years, and for juvenile persons aged 16 to 18 who committed a crime punishable with life imprisonment, the term of imprisonment cannot exceed 15 years.

158. According to article 60 of the Criminal Code, if the court finds that juveniles under 18 years, who committed a less serious crime, may be corrected without imposing a criminal penalty, the court may apply constraint measures with an educational character (obliging the minor to ask forgiveness publicly or in other way established by court from the injured person, reprimand or a severe reprimand, warning, obliging the minor, who reached 15, to make restitution for the damage he has caused, if the minor has his own income and if damage does not exceed one minimum wage; the remanding of the minor in question to a strict supervision of parents or persons replacing them, the remanding of the minor to the supervision of labour collective, of a public organization with their consent or with the consent of certain citizens at their request, the placement of the minor in question in a special educational and training institution or treatment and training institution).

159. When establishing a penalty, the court considers commission of a crime by a minor or a pregnant woman as attenuating circumstances (art. 37 of the CC).

160. Women, sentenced to imprisonment, carry out the punishment in educative labour colonies and in colonies with severe regime (art. 23).

161. It is stipulated in the draft of the Criminal Code, that convicted pregnant women and women who have children under eight years of age, except for women sentenced to jail for a term longer than five years for serious crimes, extremely serious crimes and heinous crimes against other persons, the court may postpone the serving of the sentence until the child reaches the age of eight (art. 94).

162. The Criminal Code does not foresee expressly the crime of genocide, but it punishes only deliberate actions, aimed at inciting hatred or national, racial break up, at humiliation of the national honour and dignity and also direct or indirect limitation of the rights or establishment of some direct or indirect advantages for citizens depending on their racial or national origin (art. 71).

163. The draft of the Criminal Code stipulates in article 131:

> Genocide - means committing, with the intention of destroying in whole or in part a national, ethnic, racial or religious group, one of the following actions:
>
> 1. Killing members of the group;
>
> 2. Causing grave physical or mental damage to members of the group;
>
> 3. Taking measures to prevent births within the group;
>
> 4. Transfers of children from the group by force to some other group;
>
> 5. Causing such group to live in conditions likely to cause their total or partial physical destruction,
>
> – shall be punished by imprisonment for a term of ten to twenty-five years or life imprisonment.

164. Article 66 of the Constitution mentions the basic powers of the Parliament and one of its powers is to pass bills of amnesty.

165. The bill of the Law on Amnesty foresees:

> Amnesty is an act of the legislative body, by which the Parliament of the Republic of Moldova orders either partial or total removal of criminal liability or penalty, or reduction of the carried out penalty or its commutation into an easier penalty;

166. The Law on amnesty also foresees:

(a) relieving of criminal liability and penalty;

(b) reduction of the non-executed part of the penalty;

(c) cancellation of criminal antecedents of persons who ought to be relieved of penalty;

(d) relieving of complementary penalty;

(e) transfer of convicts from penitentiaries with a strict regime to colonies-settlements.

167. When establishing amnesty, the nature of the crime or the nature and amount of the penalty rendered is taken into consideration, and also information that characterizes persons to whom amnesty is enforced.

168. Amnesty is not established for persons:

- declared recidivists on the basis of the court's final sentence;
- sentenced to life imprisonment or to whom capital punishment was commuted into imprisonment through pardon;
- sentenced to imprisonment more than twice for serious deliberate crimes and who have two or more penal antecedents for these crimes that are not cancelled;
- who did not return caused damages;
- deliberate offenders of the penalty regime;
- sentenced for committing certain serious crimes.

169. Later laws regarding amnesty may establish also other categories of persons to whom amnesty is not established.

170. Article 105 of the Criminal Code draft foresees: "Amnesty removes criminal liability for a committed act. If the amnesty is established after conviction, it also removes execution of the established punishment, as well as other consequences of conviction. The fine paid before the amnesty is not to be restored."

171. Amnesty does not have any effects on the security measures or on the rights of the injured person.

172. Article 88 of the Constitution stipulates powers of the President of Moldova and one of them is granting individual pardon.

173. According to article 106 of the Criminal Code draft:

- Pardon has as its effect total or partial removal of execution of punishment or change of punishment to a lesser one.

- Pardon is given at the request of the convicts, their relatives or state or non-governmental organizations.

- Pardon does not have effects on complimentary punishments, with the exception of cases when it is provided in the pardon order.

- Pardon does not have any effects on the security measures or on the rights of the injured person.

ARTICLE 7

174. Article 24, paragraph 2 of the Constitution stipulates that no one shall be subjected to torture or to cruel, inhuman or degrading punishment or treatment. In order to enforce this constitutional provision, the Parliament passed the Law regarding amendment and completion of certain legislative acts on 24 December 1998. The Criminal Code was completed with a new article 101/1 that incriminates torture.

175. Torture, defined as actions that deliberately cause a strong, physical or mental pain or suffering to a person, especially aimed at obtaining from that person or from another person information or confessions, to punish that person or another person for an action that he/she has committed or is suspected to have committed, to intimidate or to exercise pressure on him/her or on another person or for any other reason based on discrimination, indifferently of its form, when such pain or suffering are caused by an agent of the public authority or by any other person that acts officially or at the incitement or with explicit or tacit consent of such persons, excepting pain or suffering, that exclusively results from legal sanctions inherent to such actions or occasioned by them,

- shall be punished by imprisonment for a period of 3 to 7 years.

176. The Law of the Republic of Moldova on petitioning No. 190-XIII from 19 July 1994, article 19 stipulates: "Persecution of the petitioner for submitting a petition or for expressing certain critic remarks, that are included within the petition, and also actions foreseen by article 18 (groundless refusal to examine petition or tergiversation of its examination, passing certain decisions that are inconsistent with the legislation, disclosure of certain information regarding personal life of the petitioner against his/her will, leads to the administrative liability), if they were accompanied by an abuse of power or position, excess of power or exceeding job responsibilities, by negligent attitude towards his/her duties on the behalf of the persons who have positions of responsibility, that led to considerable damage to the petitioner's rights and to state and public interests, lead to criminal liability."

177. The Criminal Code of the Republic of Moldova in Chapter 8 foresees crimes committed by officials. Article 185 establishes criminal penalty for inhuman or degrading treatment towards arrested persons:

Article 185 "The exceeding of one's authority or official powers".

178. The exceeding of one's authority or official powers, i.e., the commission by an official of acts which are clearly beyond the limits of the legal privileges and powers granted to him, resulting in substantial damage to the public interests or to the rights and interests of individuals or legal entities which are protected by law,

- is to be punished by imprisonment up to three years, or by a fine in the amount of thirty up to one hundred minimum wages, or by dismissal, in both cases depriving the right to occupy certain position or to exercise certain activity for the period of up to five years.

179. The exceeding of one's authority or official powers, when committed by use of force, or use of arms, or acts which torture the injured party or insult his personal worth,

- is to be punished by imprisonment of three up to ten years with depriving the right to occupy certain position or to exercise certain activity for the period of up to five years.

180. The exceeding of one's authority or official powers, when committed repeatedly by an official who holds a responsible position or committed in the interest of a criminal organization, or caused serious consequences,

- is to be punished by an imprisonment of five up to twelve years with depriving the right to occupy certain position or to exercise certain activity for the period of two up to five years.

181. The Criminal Code also incriminates coercion to give testimony during the interrogation or coercion of an expert to give a conclusion or of interpreter to provide an inaccurate translation by the use of threats or other unlawful acts on the part of the person conducting the inquiry or the preliminary investigation,

- is to be punished by imprisonment up to three years (art. 193, para. 1).

182. The same acts involving violent acts against the person, or humiliation of the person,

- is to be punished by imprisonment for a period of three to ten years. (1)

183. Also, the following actions are incriminated by the Criminal Code: coercion of a witness, injured party to give false testimony to the authorities conducting the inquiry, the preliminary investigation or to the court, coercion of an expert to perform false conclusions, coercion of a translator to give a false translation, committed by threat of murder, violence, destroying the property of the person in question or his close relatives, by corruption or other illegal acts aimed at impeding the administration of justice,

- is to be punished by imprisonment for period of six months to two years (article 194, as completed by Law No. 1044 from 17 December 1996).

184. There are also other normative acts that guarantee to a certain extent prohibition of cruel, inhuman or degrading torture. The Criminal Procedure Code passed by the Law from 24 March 1961, was supplemented by article 6 named "Freedom and security of the person". On the basis of the Law No. 1579 from 27 February 1998, paragraph 5, it is stipulated that no one shall be subjected to torture or to inhuman and degrading treatment during criminal pursuit.

185. Article 14, paragraph 4 of the CPC stipulates that it is prohibited to force the suspect, indicted or defendant to give testimonies by using violence, threat and other illegal measures.

186. At the same time, on the basis of article 55, paragraph 3, evidence obtained by infringing upon the CPC provisions or evidence that was not examined properly during the pursuit cannot constitute basis for a sentence or other judicial rulings (this paragraph was passed by the Law from 9 December 1994).

187. The prosecutor, when supervising the observance of laws by criminal investigation authorities or bodies carrying out criminal pursuit, has the following responsibilities according to article 188:

(a) requests from criminal investigation authorities or bodies who carry out the criminal pursuit, for the purpose of control, criminal files, documents, materials and other information on the committed crimes, on carrying out the criminal pursuit and preliminary investigation, on identified persons who have committed crimes, also controls at least once a month the carrying out, in conformity with law, of the way of receiving, registering and solving requests and notifications regarding committed and planned crimes;

(b) cancels illegal and groundless ordinances and reports issued by criminal investigators and persons who carry out the penal pursuit.

188. On the basis of the Law No. 1275 from 18 July 1997, article 88 was completed by p. 12. It stipulates that the prosecutor shall notify criminal investigation authorities or bodies that carry out the criminal pursuit on elimination of the law infringements admitted during penal pursuit.

189. In 1999, the public prosecution bodies, supervising the observance of legislation by the police, have submitted 582 notifications regarding the cases of violation of citizens' rights and freedoms. On the basis of the prosecutors' notifications and ordinances, 891 of the police employees were disciplinary sanctioned. Also in 1999, 80 policemen were tried by criminal law.

190. In order to prevent cases of infringements upon human rights and also in order for the police employees to be accustomed with international stipulations in this field, the Ministry of Internal Affairs in December 1998 and March 1999 issued two orders that foreseen, during professional preparation, obligatory character of thorough study of the international conventions in the field of human rights, signed by Moldova, with further examination. There are some difficulties in the process of preparing policemen in the field of preventing torture or other inhuman or degrading punishments, because of the lack of didactic materials translated into Romanian. The main provision of the national legislation that ensures the citizens' right to inform about the infringement of certain rights is stipulated in article 52 of Moldova's

Constitution: all citizens have the right to apply to public authority by way of petitions formulated on behalf of the applicants. These rights are strengthened by the Law on Parliaments Lawyers No. 1349 from 17 October 1997. It stipulates that the request submitted to the ombudsman on behalf of the detained person will not be checked by the penitentiary administration and will be sent within 24 hours (art. 19).

191. These rights are equally protected by the Statute on penalty execution by convicts passed by the Decision of the Government No. 923 from 20 December 1994 that foresees in paragraph 19 "Proposals, requirements and complaints of the convicts". According to this Statute:

- Convicts formulate their proposals, requirements and complaints in written or oral form. Proposals, requirements and complaints submitted in written form are sent to the addressee through the administration of the institutions. Proposals, requirements and complaints that are not signed will not be sent;

- Convicts formulate proposals, requirements and complaints only personally and regarding personal issues. The submission of collective proposals, requirements and complaints or on behalf of other persons - is prohibited.

192. Proposals, requirements and complaints that contain obscene expressions, including those with slander character that offend honour and dignity of the institution staff, are not sent to the addressee.

193. Proposals, requirements and complaints addressed to the superior law bodies are not submitted to censorship and during three days shall be sent to the addressee. In accordance with article 193 of the CPC, written complaints that are against the acts of criminal pursuit or criminal investigation officer are examined by a public prosecutor.

194. Oral complaints are registered by a public prosecutor, criminal investigation officers or the person who carries out the penal pursuit, in official minutes signed by the person who addresses the complaint and the person who receives them. The person who carries out the penal pursuit and criminal investigation officer must, within 24 hours, submit the complaint together with their explanations to the prosecutor.

195. Within three days since the complaint was received, the public prosecutor must examine it and communicate his decision to the person who addressed the complaint. When the complaint is repealed, the public prosecutor must indicate reasons for considering it as groundless (art. 195 CPC).

196. The total number of complaints against policemen or penitentiary system for their inadequate behaviour towards the detained, arrested or sentenced persons is not established, because they are submitted to - and registered at different bodies (the Ministry of Internal Affairs, the public prosecutor bodies, courts of law, Ombudsmen, State Office etc.), that do not have a common statistics in this field.

197. The Disciplinary Statute of the internal affairs authorities (p. 14), approved by the Decision of the Government No. 2 from 4 January 1996, foresees the following disciplinary sanctions that can be applied to policemen:

- remark;
- reprimand;
- severe reprimand;
- warning concerning incomplete correspondence to the position;
- demotion from the occupied position;
- demotion to a one level lower rank;
- demotion in the rank of qualification;
- dismissal from the internal affairs bodies.

198. Policemen who do not agree with the sanction applied to them have the right to submit requests or complaints to the hierarchically superior chief, and if they do not agree with the final solution, they may address the court in accordance with article 20 of the Constitution.

199. The Law on preventive arrest No. 1226 from 27 June 1997 (in art. 34, pp. 17 and 18) requires the performance of a compulsory medical examination of persons against whom physical force, special means or fire arms were applied, and also an immediate written communication of these actions to the public prosecutor.

200. Within the legislative reform, the drafts of the Criminal Code, Criminal Procedure Code, Code of executing criminal law sanctions are almost finished. They expressly foresee the principles and guaranties regarding the right of persons not to be subjected to torture or inhuman and degrading treatment.

201. The draft of the Criminal Code incriminates the following actions:

- holding with a good faith answerable an innocent person for a criminal responsibility (art. 348);
- the handing down of an unjust verdict, decree, conclusion or illegal decision (art. 349);
- detention or illegal arrest (art. 350);
- coercion to give evidence (art. 351);

- the abuse of power or of an official position (art. 370);
- the exceeding of one's authority or official powers (art. 371);
- professional negligence (art. 372);
- abuse of duties (service) (art. 379);
- the overtake of professional duties (art. 380).

202. The draft of the Criminal Procedure Code of Moldova foresees that no individual can be physically or mentally abused and any actions and methods that jeopardize the life and health of people, even with their consent, as well as the environment, will be forbidden. During the penal pursuit, the person held or arrested cannot be subjected to violence, threats or methods that would lead to the alteration of his/her ability to make decisions or express his/her opinions (art. 13).

203. The draft of the Code on execution foresees the convict's right to personal security (art. 162) and namely:

the state guarantees personal security of convicts detained in prison;

when a danger for personal security of the convict arises, he is entitled to address any officials, from the institution responsible for execution of arrest or imprisonment, with a request to ensure his/her personal security. In this case the official must immediately take necessary measures for ensuring personal security of the convict.

ARTICLE 8

204. Article 8 of the Covenant analyses separately slavery and servitude on the one hand and forced and compulsory labour on the other hand. The first two words refer to developed forms of individual's sequestration. Forced or compulsory labour stresses the involuntary character of labour or services.

205. More and more articles recently published in press discuss disappearances of certain persons from the Republic of Moldova. This phenomenon appeared in conditions of deep economic crisis, when certain socially impoverished categories fall under the influence of traffickers while looking for a job.

206. The victims of this illegal traffic are usually women. As a result of this phenomenon women are forced to live in conditions of slavery, they are denied the right to decide their own fate and are exploited sexually or economically.

207. The Republic of Moldova in article 44 of the Constitution prohibits forced labour. Forced labour is also prohibited by the Conventions No. 105 regarding the abolishment of forced labour (ratified on 10 September 1991) and No. 29 regarding forced or compulsory labour

(ratified on 1 November 1999) of the International Labour Organization and its Recommendations Nos. 35 and 36, the International Covenant on Civil and Political Rights that came into force in the Republic of Moldova on 26 April 1993.

208. According to the Convention No. 105 of the ILO: forced labour is coercion to practice certain labour under threat of punishment (inclusively as a means of maintaining labour discipline).

209. The Republic of Moldova has pledged itself to abolish and not use forced or compulsory labour:

(a) as a means of political or educational influence or as a punishment for supporting or expressing political opinions or beliefs opposite to those established by political, social and economic system;

(b) as a means of mobilization and use of labour force for the purposes of economic development;

(c) as a means of maintaining work discipline;

(d) as a punishment for participation in strikes;

(e) as a means of discrimination based on racial, social, ethnic or religious affiliation (Convention No. 105 of the ILO, article 1).

210. Convention No. 29 of the ILO also stipulates the conditions under which it is possible to engage in forced labour (art. 9). Persons who could be engaged in compulsory labour are usually males capable of work aged 18 to 45, taking into consideration family and marriage relations. Thus, cannot be engaged in forced labour the following categories: females, old or disabled people, youth, pupils, faculty members of secondary schools and administrative personnel. The percentage of the population that can be engaged in compulsory labour cannot exceed 25 per cent of its total. The maximal term of engagement in compulsory labour is 60 days per person per year. Labour conditions of persons engaged in compulsory labour (wage, work hours and leisure etc.) should be the same as those of persons freely engaged in labour. Forced labour is not allowed for underground activities.

211. According to the Convention No. 29 of the ILO, illegitimate use of forced labour shall be sanctioned as a crime.

212. The prohibition of forced labour led to the elimination of transfers to lower-paid work as a means of disciplinary sanctions. Article 143 of the Labour Code was respectively modified by the Law No. 1315-XII from 2 March 1993, while the Law on the use of labour force from 22 January 1992 stipulates in article 1: "Administrative coercion to any kind of labour is prohibited". Voluntary non-engagement in work of the citizens cannot serve as a basis for administrative or penal liability.

213. The draft of the Criminal Code foresees in Chapter III "Crimes against freedom, honour and dignity of a person". This chapter includes the following crimes:

- slavery (art. 164);
- forcing to labour (art. 165).

214. Paragraph 2 of the article 44 of the Constitution indicates activities that shall not be regarded as forced labour:

(a) Military-like duty or the activities designed to replace it, carried out by those who under the law are exempted from compulsory military service.

215. The Law on alternative service of the Republic of Moldova establishes, in accordance with the Constitution and the norms of international law, the procedure of substitution of military service with alternative service and the performance of alternative service in order to ensure a framework for the performance of civic duty towards the society, compatible with the right of the citizens to the freedom of thought, conscience, religion and beliefs (art. 1).

216. Citizens of Moldova have the right to refuse engagement in compulsory military service on the basis of religious or pacifist beliefs.

217. Citizens exempted from compulsory military service on the basis of religious or pacifist beliefs must perform the alternative service (art. 3).

218. The alternative service is a state service with a civil and socially useful character, performed by the citizens who refused the performance of compulsory military service on the basis of religious or pacifist beliefs.

219. The alternative service does not possess the character of punishment. It is organized, implemented and controlled by public authorities (art. 4).

220. The alternative service incorporates male citizens of Moldova aged 18 to 27, registered as recruits and exempted from military service as stipulated in the law.

221. The following categories of citizens are not incorporated in alternative service:

- citizens who have performed the compulsory military service;
- citizens whose brothers were wounded or died during military or alternative service;
- members of cults, monks and students of the institutions of theological education;
- citizens unable to perform the alternative service because of poor health;
- persons who served a sentence for committing severe crimes (art. 5).

222. The length of alternative service is 24 months.

223. Citizens of Moldova perform alternative service at enterprises, institutions and organizations in Moldova, and also in special alternative service structures deployed on its territory.

224. Alternative service can be performed abroad only with the consent of the citizen, based on an agreement, by the decision of the supreme authority of alternative service, on the basis of inter-governmental agreements, signed by Moldova.

225. Alternative service is performed:

- in specialized structures of alternative service (accidents rescue teams, fire brigades, environmental, construction, road repairs teams etc.) created by local administration authorities;
- in institutions and organizations (of health, social sphere, communal households etc.);
- in State and municipal enterprises.

226. Citizens in reserve of alternative service can be engaged, by a Government's decision, in the liquidation of the consequences of extraordinary situations. In the case of military service the citizens obligations stipulated in article 57 of the Constitution of Moldova are as follows:

- defence of one's motherland is the right and the sacred duty of every citizen;
- the national armed forces constitute the framework for performing military services, for national defence, guarding the borders, and maintaining public order under the law.

227. The Law of the Republic of Moldova on military obligation and military service of citizens of Moldova No. 968-XII from 17 March 1992 stipulates that military obligation is a constitutional duty of the citizens of Moldova and consists of compulsory military instruction of the citizens and it is established in order to complete the National Armed Forces and prepare their reserves (art. 1). Military service is a special type of State service, that consists of the fulfillment by the citizens of the constitutional duty of defending the state as a part of the Armed Forces, based on military obligation or voluntary enrolment through an agreement.

228. However, if those enrolled in compulsory military service or performing alternative service are imposed abusive tasks, having no connections with their activities, abuses will be committed.

229. The Criminal Code incriminates the failure to incorporate in the military service, obliged military preparation or alternative service (art. 77), the failure of mobilization (art. 78), the failure or refusal to satisfy the alternative service.

(b) Work done by a convicted person under normal conditions, in custody or on conditional release.

230. The draft of the Law on execution in Chapter 22 determines the procedure of execution of punishment in the form of unpaid labour for the benefit of the community (art. 185); the conditions of execution of punishment in the form of unpaid labour for the benefit of the community (art. 186).

(c) Services such as those required to deal with calamities or other dangers or as considered under the law to be a part of normal obligations of civilians, established by law. In these cases the authorities are the ones to impose the inhabitants certain tasks aimed at reducing the degree of danger or contributing to its elimination.

ARTICLE 9

231. The Constitution of the Republic of Moldova guarantees individual freedom and personal security. Article 5, paragraph 1 stipulates that individual freedom and personal security are declared to be inviolable. The same provision is foreseen in article 6, paragraph 1 of the Criminal Procedure Code passed by the Law No. 1579 from 27 February 1998.

232. Article 6, paragraph 2 of the Criminal Procedure Code stipulates that no one can be deprived of his/her liberty, except under the conditions of law and in accordance with the procedure established by this Code in the following cases:

1. If the person is legally detained on the basis of a decision rendered by a competent court;

2. If the person was legally arrested for not executing a judgement rendered by a court in accordance with the law;

3. If the person was legally detained or arrested in order to be brought before a competent court of law, when there are well-grounded reasons to suspect that the person in question committed a crime or when there are reasons to believe that it is necessary to impede the person from committing a crime or from escaping after having committed it. Anyone who is detained or arrested shall be informed of all his/her legal rights before performing any other procedural acts with his/her participation. If the person is not informed of his/her rights, this can be a reason for contesting the legality of the detention or arrest (art. 6, para. 3).

233. During criminal procedure, no one may be subjected to torture or inhuman or degrading treatment (article 6, paragraph 6 of the Criminal Procedure Code).

234. In accordance with the Law on police article 13, police can detain in custody vagabonds and beggars; detain and keep under arrest, for a period of 30 days, on the basis of the prosecutor's sanction persons suspected of committing crimes or administrative offences.

235. Administrative arrest complies neither with the requirements of the criminal detention and arrest, nor with the guarantees granted to the person by the Criminal Procedure Code.

Administrative arrest is already performed on the basis of article 174 of the Code of Administrative Offences with a simultaneous performance of the criminal investigation.

236. However, there are several principles that contribute to the implementation of liberty and security of a person:

- *the principle of legality of crime and punishment*, stipulated in article 3 of the Criminal Code. It declares that only the person who intentionally or by imprudence committed a crime provided by the Criminal Legislation is held responsible and is submitted to criminal sentencing. No person can be held responsible for having committed a crime, or be sentenced to a criminal punishment, unless on the basis of a court sentence and in strict compliance with the Criminal Legislation.

- *the principle of non-retroactivity of criminal law*, stipulated in article 22 of the Constitution. It declares that no one may be sentenced for actions or omissions which did not constitute an offence at the time when they were committed. Also, no punishment may be given that is harsher than that applicable at the time when the offence was committed. Article 6 of the Criminal Code indicates that the criminal nature of the deed and the application of the punishment for it are established by the criminal law in force in the moment of committing the act. The criminal law that eliminates or diminishes the punishment has a retroactive character, it means that such a law extends on crimes committed before its coming into force. A criminal law that establishes the punishment for a deed or aggravates the penalty of the person has no retroactive effect.

- *the principle of presumption of innocence* is also stipulated by article 21 of the Constitution: "Any person defendant to have committed an offence shall be presumed innocent until found guilty on legal grounds, brought forward in a public trial in the course of which all guarantees for necessary defence will have been taken." The same principle was included in the Criminal Procedure Code, article 4 , by the Law adopted on 3 November 1994.

- Searching, detaining in custody or arresting a person shall be permitted only if based on the authority of law (article 25, page 2 of the Constitution). The detained in custody or arrested person will be informed within three hours of his/her rights and of the reasons of his/her detention or arrest, as well as of the circumstances and the legal classification of the crime the person is suspected or accused to have committed, in a language she/he can understand, and all these are mentioned in the minutes on detaining in custody or in the arrest warrant (article 6, paragraph 4 of the Criminal Procedure Code).

237. Article 73, paragraph 1 of the Criminal Procedure Code, adopted by the Law No. 1579 from 27 February 1998, stipulates grounds for applying preventive measures such as preventive arrest. Preventive arrest may be applied in cases when there are sufficient reasons to believe that the suspect, indicted or defendant can hide from the penal pursuit body or from the court; to impede the establishment of truth in the criminal trial, or to commit new crimes, and also in order to ensure the arrest.

238. Preventive arrest has as a goal prevention of the future evasion of the person from penal pursuit and court (article 2 of the Law on preventive arrest).

239. According to the Law on preventive arrest, article 11, persons detained in custody benefit from the rights and freedoms established by the legislation of Moldova with restrictions stipulated in the present law and in the Criminal Procedure Code. Detention of persons in places of preventive arrest is implemented on the basis of the principle of observing the Constitution of Moldova, the requirements of the Universal Declaration of Human Rights, and other legal norms and international standards regarding treatment of the detained persons and cannot be cumulated with deliberate actions which cause physical and moral sufferings or offend human dignity.

240. Article 78 of the Criminal Procedure Code, in the edition of the Law No. 1579 passed on 27 February 1998, shall be taken into account when applying the measure of preventive arrest. Preventive arrest is applied, in conformity with article 6 of the CPC, in cases of committing a crime for which the law provides imprisonment for a period of more than one year. Preventive arrest is applied on the basis of an arrest warrant issued by the court or on the basis of the tribunal's decision. The right to decide the application of preventive arrest belongs to judges in whose territorial jurisdiction the penal pursuit or preliminary investigation authorities are functioning. After the warrant for arrest was issued, the judge, within 24 hours, informs about the arrest one of the family members of the suspect or indicted or other person at his request. If the arrested person is a citizen of another State, the embassy or consulate of that State should be informed of his/her arrest.

241. The examination of the approach regarding application of preventive arrest, is performed on the basis of the Criminal Procedure Code, article 78/1, adopted by the Law No. 1579 passed on 27 February 1998. The control of the legality of applying or refusing to apply the preventive arrest is foreseen by article 78/2 of the CPC, in the edition of the Law No.1579 from 27 February 1998 and amendments made in this article through the Law No. 95 from 16 July 1998. The maximal time limit for keeping under arrest in order to investigate crimes is 30 days, excepting cases stipulated by the CPC (article 79, paragraph 1 of the CPC, in the edition of the Law No. 1579 from 27 February 1998).

242. In exceptional cases, depending on the complexity of the case, gravity of the crime and when there are no reasons to change the preventive measure, this term may be extended:

1. To six months - if the person is charged with committing a crime that shall be punished by imprisonment of up to 15 years;

2. To twelve months - if the person is charged with committing a crime that shall be punished by imprisonment of up to 25 years or with life detention.

243. For indicted juvenile persons, who did not turn 16 at the moment of committing the crime, the period of keeping under arrest can be prolonged only to four months and for indicted juvenile persons, who did not turn 18 at the moment of committing the crime - only to six months. After sending the case to the court, the defendant may be kept under arrest, until the final judgement is rendered, within a reasonable time (article 79, paragraph 6, adopted by the Law No. 95 from 16 July 1998).

244. The control of the legality of prolonging or refusing to prolong the period of keeping under arrest is performed according to article 79/2 of the CPC, in the edition of the Law No. 1579 from 27 February 1998 and examination of the approach on prolongation of the period of keeping under arrest is implemented on the basis of the article 79/1 in the edition of the Law No. 1579 from 27 February 1998 with modifications made through the Law No. 95 from 16 July 1998. Cancellation or change of the preventive measure is made by the judge on the basis of article 82 (CPC), adopted by the Law No. 1579 from 27 February 1998.

245. The authority that carries out penal pursuit or criminal investigation officer have the right to detain in custody any person suspected of committing a crime, punished according to the law by imprisonment (art. 104, para. 1, CPC). The period of detention in custody may not exceed 24 hours (art. 104, para. 3, CPC). If within 24 hours from the moment when the minutes was issued, there was no request addressed to the court regarding issuance of an arrest warrant, the prosecutor orders the release of the person detained in custody (art. 104, para. 4, CPC). In case of detaining a minor in custody, the criminal investigation officer, prosecutor or person who carries out the penal pursuit is obliged to immediately communicate the fact to the parents of the minor, to persons who replace them, as well as to the management of the school where the minor studies.

246. The reasons of detaining in custody, as well as indictment, shall be informed only in the presence of a lawyer, either chosen by the defendant or appointed ex officio (article 25, page 5 of the Constitution). On the basis of article 43, paragraph 1 (CPC), the participation of a defender in the criminal procedure is compulsory from the moment of indictment, in case of detaining in custody or arresting the suspect or indicted - from the moment when they have been informed about the minutes of their detention in custody or when they have been presented with the arrest warrant.

247. On the basis of article 46 (CPC), the defender has the right to know the content of the minutes of the suspect's detention in custody, to assist at the hearings of the suspect or indicted during the examination by the court of the approach regarding application towards him of the preventive arrest, to participate in the examination by the judge of the approach regarding the prolongation of the period of arrest. After the first interrogation of the suspect or indicted detained in custody or under preventive arrest, the lawyer is in charge to meet him/her without limitation of number and duration of their meetings.

248. During examination of all file materials, the defender of the indicted, has the right (art. 179 CPC):

1. To meet the indicted privately;

2. To familiarize with all file materials and to note the necessary information;

3. To discuss with the indicted the claims that should be formulated;

4. To challenge the criminal investigation officer, prosecutor, expert, specialist, interpreter;

5. To ask that certain actions of penal pursuit are carried out;

6. To address petitions to the prosecutor against the acts of the criminal investigation officer, who violates or could restrict the rights of the defender or of the indicted;

7. To assist, with the authorization of the criminal investigation officer, at the acts of criminal pursuit when these are being carried out, as requested by the indicted or by his/her defender.

249. On the basis of article 180 (CPC), all file materials are submitted to the indicted and his defence counsel and the minute of the completion of preliminary investigation is drawn up.

250. According to article 192 of the CPC, the prosecutor or his deputy, after the indictment is confirmed, sends the criminal case to the court. On the basis of article 196, the court within 14 days from the day when the case was brought to the court, adopts one of the following decisions:

1. On trying the case;

2. On sending the case to the competent court;

3. On suspending the case.

251. According to article 114 of the Constitution, justice shall be administered in the name of law by courts of law only; and on the basis of article 115, paragraph 1 justice shall be administered by the Supreme Court of Justice, the Court of Appeal, by tribunals and the courts of law.

252. The principles of organization of the courts are developed in the Law of the Republic of Moldova on judicial system No. 514 from 4 July 1995. These principles are the following:

- free access to justice, stipulated in article 6 of the law and article 20 of the Constitution;

- equality before the law, stipulated in article 8 of the Law and article 126 of the Constitution;

- transparency and adversity character of the criminal procedure, as reflected in article 10 of the law.

253. The courts of law examine all cases and requests, excepting cases that, according to the law, are of the competence of other courts such as: tribunals, the Court of Appeal and the Supreme Court of Justice.

254. In accordance with article 213 (CPC), during the trial of the case, the first instance must directly examine evidences regarding the case, hear the defendants, injured persons, witnesses, conclusions of experts, examine corpus delicti, read minutes and other documents.

255. The sessions of the court that tries the case in the first instance are presided by the president or vice-president of the court or by a judge assigned by them. The judge who is examining the case personally has the obligations of the session's president (article 214, paragraph 1 of the CPC).

256. According to article 215 of the CPC all participants at the trial are equal in rights before the court. Judicial debates of the case, in the courts of law, are made regarding the indicted and in limits of the accusation (article 220, paragraph 1 of the CPC). If the case cannot be tried, the court suspends the trial. If during the examination of the case, one of the defendants has disappeared, the trial regarding the defendant is suspended. If as a result of the separation of the case, the establishment of the truth is impeded, the trial is suspended until the defendant is found. If during the examination of the case the defendant becomes very ill, the trial is suspended until his recovery.

257. In accordance with article 243 of the CPC, the president of the session explains the rights of the defendant stipulated in article 216 of the CPC. After listening to the last word of the defendant, the panel of judges withdraws for deliberation (article 268 of the CPC). After deliberation, the court renders the sentence in the name of law (article 269 of the CPC). The sentence has to be legal and well-grounded, based only on the evidences that were examined during the trial. It also has to be motivated by the court (article 271 of the CPC).

258. As article 279 of the CPC stipulates, the court can adopt an acquittal sentence or a conviction sentence. The defendant who does not agree with the sentence rendered by the court, in compliance with article 307 of the CPC, is entitled to declare an appeal. The defendant's appeal can also be declared by the defender or his legal representative.

259. According to article 308 of the CPC, the term of appeal is 10 days after the announcing of the sentence, and for the defendant who is under arrest, the term starts running from the moment she/he has been given a copy of the sentence or of the main part of the sentence. The following sentences cannot be appealed: sentences declared by the judges or pronounced by the military court regarding crimes for which the law does not provide imprisonment. Also cannot be appealed sentences pronounced by the Court of Appeals and the Supreme Court of Justice (article 306 of the CPC).

260. The court of appeal cannot aggravate the situation for the appealing person (article 316, paragraph 1 of the CPC). When examining the appeal, the court of appeal verifies the appealed decision based on the evidence examined by the first instance according to the materials from the case and any new evidence presented to the court of appeal (article 320, paragraph 1 of the CPC). The court of appeal, when examining the appeal, adopts one of the following decisions:

1. Denies the appeal, maintaining the appealed decision:

   (a) if the appeal is submitted after the term;

   (b) if the appeal is not acceptable;

   (c) if the appeal has not grounds;

2. Accepts the appeal, annulling the sentence of the first instance and:

(a) pronounces a new decision according to the established order for first instance;

(b) send the case for re-examination (article 321 of the CPC).

261. The term of recourse is 10 days, if the law does not stipulate otherwise; and in cases of drafting the decision - 7 days after a written notification of the parties about the signing of the drafted decision by all members of the panel (art. 329, CPC). The recourse court, when solving the case may not aggravate the situation of the appellant (art. 333, CPC). The recourse court, when examining the case, can deny the recourse, maintaining the appealed decision, or can accept the recourse, annulling the appealed sentence.

262. Examination of the appeal and recourse is usually done in the presence of the defendant, when the latter is under arrest. Absence of the legally invited parties does not impede examination of the case. The presence of the prosecutor in the examination of appeal is mandatory (art. 318, CPC and art. 335/1, CPC).

263. During 1999-2000 the Centre for Development of Judicial Personnel organized professional improvement courses, seminars and workshops for judges, prosecutors, judiciary executors and lawyers for the purpose of studying the implementation of provisions of the International Covenant on Civil and Political Rights and other international legal acts signed by the Republic of Moldova. These seminars were attended by 285 judges, 195 lawyers, 220 employees of the Prosecutor's Office, 25 judiciary executors. Centre for Development of Judicial Personnel issues the publication "Judicial Courier", in order to inform Moldova's judicial community of the Centre's activity and to submit annual reports.

264. The Higher Magistrates' Council during 1999-2000 elaborated the curriculum for the attestation examination for judges and prospective judges. This curriculum comprises the human rights issues. The bill of the Regulations on the attestation of judges was also prepared. During this period of time 80 judges were attested in order to be appointed before reaching the limit age.

265. The Higher Magistrates' Council (HMC) received 422 petitions in the first half of 2000, 60 per cent - concerning delays in the examination of cases or carrying out sentences, 10 per cent - concerning breach of material or procedural legislation, 5 per cent - undignified behaviour.

266. In order to raise the responsibility of judges, HMC together with the Association of Judges elaborated the Code of Professional Ethics of Judges, passed at the Judges' Conference on 4 February 2000.

267. According to article 53 paragraph 2 of the Constitution, the State is under patrimonial liability, as foreseen by the law, for any prejudice or injury caused in lawsuits through errors of the police or the judiciary.

268. According to the Law of the Republic of Moldova No. 1545 from 25 February 1998 moral and material prejudice is compensated to the individuals and legal entities, as a result of illegal detention, arrest, illegal trial by criminal law; illegal sentence; illegal search, seizure, sequestration of property, dismissal from work in case of criminal investigation or examination; and other procedural actions that limit the rights of individuals and legal entities; illegal administrative arrest, correctional labour; illegal confiscation of property; illegal fine; carrying out of operative measures of investigation with breaches of legislation's provisions; illegal seizure of book-keeping documentation, other documents, money, seals, as well as blockage of bank accounts. The caused prejudice is compensated in its whole, regardless of the guilt of the officials of criminal investigation bodies, police, Prosecutor's Office or courts of law.

ARTICLE 10

269. Legislation regarding execution of criminal law penalties is implemented in accordance with the Constitution and comprises the Code of execution of criminal law penalties No. 1524, passed by the Parliament of the Republic of Moldova on 22 June 1993; the Statute of punishment execution by convicts, passed by the Government's Decision No. 923 from 20 December 1994; Criminal Procedure Code, passed by the Law from 24 March 1961; the Law on penitentiary system No. 1036 from 17 December 1996.

270. Wherever disagreements appear between Moldovan legislation regarding execution of criminal law penalties and international instruments ratified by Moldova, priority shall be given to the norms of international law (article 5 of the CECLP). The basis for execution of the penalty is the Court's sentence which has been passed as definitive.

271. According to article 20 of the Criminal Code, penalty means not just a punishment for the offence committed, but also is aimed at correction and re-education of the convicted persons in order for them to develop an honest attitude towards work, to strictly observe the laws and to prevent the commission of new crimes by the convicted person or by others. The punishment is not aimed at causing physical sufferings or humiliating the person's dignity. When the punishment is executed, the following principles are observed: the principle of legality (article 8 of the CECLP); the principle of equality of the convicted persons before the law (article 9 of the CECLP); the principle of democracy in executing the punishment (article 11 of the CECLP). The execution of punishment and the enforcement of correction measures are differentiated and individualized depending on the gravity of the committed offence, on the personality of the convicted person and his behaviour. The conditions and the way of executing the punishment are established on the basis of the principle of respecting the legitimate rights and interests of convicts and of their dignity (article 10, paragraph 1 of the CECLP). When the punishment is executed, it is inadmissible to cause physical sufferings to the convicted person or to humiliate his dignity. Tortures, coercive medical measures and measures of other nature, that can damage the health of the convicted persons, are prohibited (article 10, paragraph 2 of the CECLP).

272. The legislation regarding execution of criminal law penalties protects legitimate rights and interests of the convicted persons, ensures conditions for their correction and guarantees social equity (article 13 of the CECLP).

273. Those sentenced to imprisonment execute their penalties in penitentiaries (article 61 of the CECLP). The following institutions are considered penitentiaries: colonies of correction, colonies of re-education and prisons (article 62 of the CECLP).

274. In colonies of correction the penalty is executed by the convicted persons who have reached legal age. The colonies are classified in: colonies with a common regime, with a severe regime and colonies-settlements. The institutions of re-education and correctional instruction are created in the colonies of re-education. Convicted persons who have not reached the legal age are distributed to these colonies (article 62 of the CECLP).

275. Isolators, used for keeping persons during criminal investigation, are considered penitentiaries that ensure forced imprisonment of the persons who are under arrest, applied as a measure of coercion. The work of isolators is regulated by the Code of execution of criminal law penalties and by the legislation on preventive arrest (art. 62, para. 5).

276. According to article 384 of the CPC, persons under preventive arrest are detained in common rooms. They are distributed in the rooms, respecting the following rules of isolation: men shall be separated from women and juvenile persons from adults.

277. In extraordinary circumstances, with the Prosecutor's authorization, it is allowed to detain adults in rooms where juvenile persons are detained. Juvenile persons' distribution in rooms depends on their age, physical and intellectual development, on their moral qualities (article 14 of the Law on preventive arrest). Persons, who have previously executed a punishment in places of detention - are separated from the persons who have not been detained before. Extremely dangerous recidivists are separated from other arrested persons. Convicted persons are detained separately from other arrested ones and according to the regime of the colony of correction through labour, determined by the court's sentence. The persons convicted to life imprisonment are isolated from other persons, detained under arrest.

278. It is prohibited to discriminate persons who are detained in places of preventive arrest or to grant privileges to them, depending on their sex, race, nationality, language, ethnic origin, on their patrimonial and official situation, attitude towards religion, political beliefs, affiliation to a public association, past merit or other circumstances (article 11, paragraph 4 of the Law on preventive arrest).

279. Accused persons cannot be subjected to certain scientific or medical experiments, not even with their consent.

280. The control over the observance of legislation in places of preventive arrest is exercised by the Prosecutor General and the public prosecutors in his subordination in accordance with the Law on Public Prosecution Office (article 395 of the CPC). Article 31 of the Law on penitentiary system indicates the authorities that exercise control over the activity of the penitentiary system. These authorities are the following: the Parliament, the President of the Republic of Moldova, the Government, local public authorities. The direct control over the activity of penitentiary institutions is exercised by the Ministry of Justice.

281. Article 12 of the above-mentioned Law guarantees to the convicted and detained persons, placed in penitentiary institutions, food, most necessary things, living sanitary and hygienic conditions in accordance with the norms established by the Government.

282. Conditions of detention in police offices and temporary detention isolators do not comply with international norms. This is determined by the miserable budget of the Ministry of Internal Affairs.

283. In 1999, 453 detained and ex-detained persons addressed 167 petitions to the parliamentary lawyers. Protection of the rights of detained persons consists of a real guarantee of their right to personal security, non-admission of behaviour that humiliates human dignity, creation of the elementary detention conditions. The Centre for Human Rights, after investigating the petitions, reported: lack of vital ingredients in the nutrition of detained persons; insufficient supply of medicines; lack of adequate personal hygiene means.

284. According to article 14, convicted persons work at enterprises from within the penitentiary system, including institutions of extra-budgetary activity. In penitentiaries convicted persons who do not possess a profession receive professional instruction and subsequently engage in work.

285. Article 89 of the CECLP regulates the educative instruction of convicts, which is aimed at their re-education in the spirit of conscious attitude towards work; at observance of law, rules and norms of demeanor accepted by the society; at increasing their intellectual and cultural level. Participation of the convict in educational and instructive actions is taken into account when determining the degree of his improvement.

286. Another acute problem is to ensure convicts with work. According to the statistics, only 10 per cent of all detainees are presently engaged in work.

287. Minors convicted to imprisonment who serve the sentence in colonies of re-education with a common or severe regime are detained in different colonies or in different isolated sectors of the same colony of re-education (article 106 of the CECLP).

288. In order to correct juvenile convicts and prepare them for independent work in the society, a unique process of instruction and education is organized within the colonies of re-education. The process is oriented towards the education of the juvenile convicts to observe laws, to be conscientious in work and study, to be moral, also in order to increase their educational level or professional preparation.

289. In colonies of re-education, general and professional education is implemented through general education schools and through workshops of instruction in production (art. 116, pp. 1, 2, 4 CECLP).

290. In order to ameliorate the conditions of detention and to propose certain activities to the convicts, especially juvenile persons, the fund of artistic literature was increased and varied, a room for instruction activities with juvenile persons was opened and a TV set was provided to them.

291. Article 52 of the Criminal Code can be applied towards juvenile convicts. It foresees conditional release before the expiration of imprisonment term and substitution of the penalty with a less severe one. Article 51/2 can be applied to adults, stipulating conditional release from places of detention with compulsory work.

292. The connection of convicts with the outside world is regulated by article 71 of the CECLP. The convict has the right to meet relatives or other persons: for a short time (2-4 hours) and for extended time (1-5 days). The convict has the right to eight short meetings and four long meetings annually. In order to receive legal assistance, the convict has the right to meet with a lawyer. The number and length of these meetings is not limited. Article 73 of the CECLP regulates convicts' correspondence and the procedure of submitting complaints. The contact of the persons under preventive arrest with the outside world is regulated by the Law on preventive arrest. Article 19 of this Law regulates meetings of the convicts with relatives, lawyers and other persons. The administration of places of preventive arrest grants to the arrested persons meetings with relatives and others with a written authorization from the person who is examining the case. As a rule, there is one monthly meeting of 1-2 hours. Article 18 of the Law on preventive arrest regulates correspondence and submission of complaints, petitions and letters of the arrested persons. The latter can correspond with relatives and other persons on the basis of a written authorization from the person who is examining the case.

293. The State can ensure only 30 per cent of the necessary minimum to maintain penitentiary institutions. For instance, for medical care of one detainee, only 1.37 lei per day (10 per cent of the necessary amount) are distributed. The suppress of parcels is applied as a disciplinary sanction. Also, penitentiary staff sometimes exceed their responsibilities through abusive use of physical force in order to intimidate convicts and maintain the discipline in the prison.

294. The problem of not admitting violence on the part of the staff is very discussed nowadays. A number of specialized courses were organized, aimed at familiarizing the penitentiary staff with normative acts, including international acts on protection of human rights. Requirements towards candidates selected to be employed in penitentiary service have become more rigorous. An Instructive Centre within the Department of Penitentiary Institutions was created for initial and continuous preparation of the penitentiary staff. Within this Centre the following actions are performed: initial preparation of supervisors - three months, initial preparation of other categories of penitentiary workers - one month and continuous preparation of all employees of the penitentiary system. The curriculum of the Centre stressed the profound preparation of the future penitentiary workers in the field of human rights protection. Some educational and informative activities for convicts were performed in order to counteract violence. A strategy of combating violence and intimidation among convicts is in the process of elaboration.

295. A new Code of Execution of Criminal Law Penalties is presented to the Parliament for passing. It foresees humanization of system of imprisonment sentences execution and amelioration of the detention conditions for convicts, including convicts sentenced to life imprisonment. According to the draft of the Law, it is planned to engage convicts serving life sentence, to grant meetings with close relatives for two or four times per year - depending on the regime, to receive parcels, food packages and banderoles.

296. The number of convicts placed in penitentiary institutions until 1 July 2000.

297. The total number of convicts - 9,507, from which: in colonies of correction - 5,870; in Institutes of Social Rehabilitation - 208; in prisons - 3,429 (source of information: the Ministry of Justice/the Department of Penitentiary Institutions).

ARTICLE 11

298. The Civil Code of the Republic of Moldova regulates property and personal (non-property) relations connected to the former, in order to create technical and material foundation of the society and to better satisfy material and spiritual needs of the citizens

299. According to article 43 of the mentioned Code, agreements are acts performed by citizens or organizations in order to initiate, modify or extinguish civil rights or obligations. Agreements can be unilateral, bilateral and multilateral.

300. Article 4 stipulates that civil rights and obligations are initiated on the grounds foreseen by legislation and also from the actions of citizens and organizations, which, although not foreseen by law, generate civil rights and obligations by virtue of general law principles and the civil legislation. Thus, civil rights and obligations are initiated:

1. By agreements foreseen by law and from agreements, which, although not foreseen by law, do not contradict it;

2. By administrative acts;

3. As a result of certain discoveries, inventions, proposals of rationalization, creation of certain scientific, literary and art works;

4. As a result of causing damages to other persons and as a result of obtaining or retaining certain goods, without equitable basis, in detriment of the other person;

5. As a result of certain acts of citizens and organizations;

6. As a result of certain events, that, according to the law, led to occurrence of certain legal civil effects.

301. Article 165 stipulates that execution of obligations can be guaranteed, according to the law or agreement, by establishing a penal clause (fine, delay penalties), collateral and personal guarantee. Besides these, obligations among citizens or with their participation can be guaranteed by an earnest and obligations among organizations - by guarantee.

302. Penal clause (fine, delay penalties) constitutes a sum of money, determined by law or agreement, that should be paid by the debtor to the creditor for non-execution or inadequate execution of an obligation, especially, when it is executed with delay. Penal clause can be stipulated as a fixed amount or as a proportional quota from the amount of the main obligation. Only one claim can be guaranteed by penal clause (fine, delay penalties).

303. The creditor does not have the right to claim the payment of the penal clause (fine, delay penalties), if the debtor is not responsible for non-execution or inadequate execution of the obligation (art. 166).

304. Obligations should be executed adequately and in time established in accordance with the provisions of law, act of planning, agreement and in case of lack of such provisions - in accordance with the usually enforced rules (art. 191).

305. It is not allowed to either unilaterally refuse to execute an obligation or unilaterally modify the conditions of an agreement (art. 192).

306. In cases when the debtor does not execute or inadequately executes an obligation, he/she shall repair the damages caused to the creditor.

307. According to article 215, damages are expenses made by the creditor, loss or deterioration of the good that should have been obtained by the creditor, if obligation was executed by the debtor.

308. If a penal clause (fine, delay penalties) was foreseen for non-execution or inadequate execution of the obligation, damages are compensated for the part that was not covered by penal clause (fine, delay penalties).

309. The law or agreement may foresee the following cases:

1. When only penal clause (fine, delay penalties) can be pursued and not the damages;

2. When not only the amount foreseen by the penal clause (fine, delay penalties), but also the damages can be pursued entirely;

3. When, depending on the creditor's choice, either the penal clause (fine, delay penalties) or the damages can be pursued (art. 216).

310. According to article 218 obligations are extinguished in whole or in part:

1. By execution;

2. By compensation;

3. When a person becomes both the debtor and the creditor;

4. By the mutual agreement of the parties;

5. By cancellation or modification of the act of planning;

6. By the impossibility of execution outside the debtor's responsibility;

7. As a result of the debtor's or creditor's death, if the obligation has to be executed personally by the debtor or if it was destined personally to the creditor (art. 228).

311. The obligation is extinguished by the impossibility of its execution, if this impossibility is a result of a circumstance for which the debtor is not responsible (art. 236).

312. The person who did not execute his/her obligation or executed it inadequately is under material liability only in case of guilt (intention or imprudence), with exceptions foreseen by the law. The lack of guilt has to be proven by the person who did not execute the obligation (art. 222).

313. Thus, the existing legislative framework of the Republic of Moldova does not foresee certain penalties that would lead to criminal liability of the person who is not able to execute an obligation stipulated by the agreement.

ARTICLE 12

314. The Constitution of the Republic of Moldova in article 27 stipulates explicitly these rights inherent to everyone: "The right to move freely within the boundaries of one's native country is guaranteed. Every citizen of the Republic of Moldova is guaranteed the right to choose his place of residence anywhere within the national territory, to travel in and out of the country, also to emigrate at will."

315. According to the Law on citizenship of the Republic of Moldova from 2 June 2000, article 1, there are three categories of persons: citizens of the Republic of Moldova, aliens and stateless persons. Thus, in accordance with article 19(1) from the Constitution of Moldova which stipulates that "except in cases when the law has different rulings aliens and stateless persons shall enjoy the same rights and shall have the same duties as the citizens of the Republic of Moldova", respect of the rights of all persons within the territory of a State is guaranteed.

316. The guarantee of respect of the rights of aliens and stateless persons mentioned above is stressed in the Law on legal statute of the aliens and stateless persons in the Republic of Moldova, article 10 and article 16 respectively:

> "Aliens and stateless persons who reside in the Republic of Moldova benefit from the right to have a dwelling space as the citizens of the Republic of Moldova do."

> "Aliens and stateless persons have the right to move within the territory of the Republic of Moldova and to choose their place of residence as foreseen by the law."

317. The lawfulness of aliens and stateless persons staying in the country is an imperative requirement of the State, implemented on the basis of the Rules regarding aliens and stateless persons staying in the Republic of Moldova (p. 1), annexed to the Decision of the Government of Moldova from 6 June 1995. As a basis for ensuring the legality of aliens and stateless persons staying in the country is their entrance in - and exit from - the Republic "through borders, opened

for international communication, on the basis of identity documents, in which an entry-exit visa of diplomatic, professional, tourist, non-official or transit type is applied, if another way of entering or exiting the country is not stipulated in agreements signed by the Republic of Moldova and other States".

318. The right to freely choose residence is guaranteed by a subsequent right to actually use the chosen place of residence, these legal relations being proclaimed by the Code on housing passed on 3 June 1983. It stipulates in article 10, paragraph 4 that:

> "No one shall be evicted from his dwelling space or limited in the right to use it, except on the basis of - and in the way foreseen by - the law."

319. The rights mentioned in article 12 of the Covenant are reaffirmed in article 2 of the Protocol No. 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by the Republic of Moldova on 24 July 1997.

320. The right to leave the territory of the Republic of Moldova is guaranteed under the condition of observing the legislation that foresees the procedure and grounds of performing this action.

321. "The citizens of the Republic of Moldova and stateless persons residing on its territory have the right to exit and enter the Republic on the basis of the passport issued by competent authorities." (The Law regarding exit and entrance in the Republic of Moldova, article 1, paragraph 1). Aliens also enjoy these rights on the basis of the same law (art. 1, para. 2).

322. The right of the citizens of Moldova to change their place of residence and of work in favour for any other place outside the borders of the Republic of Moldova is guaranteed by article 15, paragraph 1 of the Law on the process of migration No. 418-XII from 19 December 1990, passed by the Parliament of Moldova.

323. The interdiction to enforce certain restrictions, not consistent with the law, is stipulated in article 54 of the Constitution: "The exercise of certain rights or freedoms may be restricted only under the law and only as required in cases like: the defence of national security, of public order, health or morals, of citizens rights and freedoms, the carrying of the investigations in criminal cases, preventing the consequences of a natural calamity or of a technological disaster. The restrictions enforced must be in proportion to the situation that caused it, and may not affect the existence of that right or liberty."

324. The guarantee of the persons' protection against certain illegal restrictions of their rights is implemented by the possibility to defend themselves by informing competent authorities, as the right of free access to justice is one of the fundamental legislative principles of the Republic of Moldova (article 20 of the Constitution). One of the possibilities of defence is to address petitions on the basis of the Law on petitioning passed on 19 July 1994. Article 18 of this Law stipulates: "Groundless refusal to examine a petition or tergiversation of its examination, taking of certain decisions not consistent with the legislation, disclosure of information regarding personal life of the petitioner against his/her will, lead to administrative liability."

325. However there is a number of legal restrictions imposed by the obligation of the State to defend citizens under its jurisdiction. Thus, certain restrictions of the freedom to enter/exit the territory of the country as concerns juvenile and incapable persons are established. According to the Regulations (art. 16), of the National System of Passports, regarding the way of processing and issuing documents of identity, passed by the Government's Decision on 6 June 1995, persons who have not reached the age of 16 may leave abroad only upon presenting a notarized agreement certified by their parents or guardians (quasi-guardian). In accordance with article 3, paragraph 2 of the Law on exit and entrance in the Republic of Moldova, children who did not reach the age of 16 and persons recognized by the court of law as incapable can benefit from the right to enter/exit the Republic of Moldova on the basis of the request written by their legal representatives.

326. The right to free movement is restricted in order to guarantee the punishment of a person who committed anti-social deeds, by the provisions of the Criminal Procedure Code that foresees the possibility of making a written declaration by suspect or indicted about not leaving the locality. This includes the obligation of not leaving the permanent or temporary place of residence, without the permission of the person who carries out penal pursuit, criminal investigation officer, the prosecutor or the court of law (art. 75, para. 1).

327. The right to freely choose the place of residence cannot be complete without the right to live in the chosen residence and thus, eviction of the tenant on the grounds of his absence from the rented lodging for 6 months (stipulated by article 63, paragraph 1 of the Code on housing) is a restriction of the above-mentioned right.

328. The critical economic situation has also had a negative effect on providing the population with dwelling space. The majority of the population is not able to buy a dwelling space and thus it is very important to study carefully all the circumstances connected with the exercise of the right to a dwelling space. In this way, the Supreme Court of Justice, as a supreme judicial authority of the Republic of Moldova, has passed several decisions that should harmonize the practice of solving cases by courts of law.

329. The ruling on the practice of enforcing certain provisions of the Code on housing by the courts of law (passed on 20 December 1999), stipulates in art. 11:

> "In cases of withdrawing the right to use the dwelling space by the tenant or his family members (art. 63), it is necessary to establish the reasons of the plaintiff's absence from the flat for a longer period of time than the term foreseen by law. If reasons of the absence are motivated (an official trip, visit to persons who need someone to look after them, absence from the flat because of the illegal behaviour of other family members etc.) the court may prolong the expired term.
>
> "When enforcing article 63 of the Code on housing, it is necessary to take into account the constitutional right of the citizen to free movement within the country, but at the same time, the tenant and his family members must observe the conditions of the rent agreement. It will be recognized that the person lost the right to use the dwelling space, if he/she returned in the flat after the legal term for absence has expired, with the consent of the family members."

330. P.13 of the above-mentioned Decision established that: "eviction in administrative way, with the prosecutor's sanction, foreseen by article 94, paragraph 2 of the Code, is not consistent with the Constitution, because in such situation the interested party does not have the right to defend his/her rights and interests in the court of law". That is why the Court ordered that eviction from the dwelling space, which is a part of the public and state fund, is allowed "only under the conditions of law and by the ruling of the court".

331. In order to improve the practice of the enforcement, by the courts of law, of some provisions of the Code on housing, the Supreme Court of Justice, through the Decision from 20 December 1999, has obliged the courts of law to discover the reasons and conditions that cause infringements upon the locative legislation. The Decision stipulates in p.27 the following: "Having in view the importance of protecting the constitutional right of citizens to dwelling space, and the right of the state bodies, enterprises, institutions and organizations that have as its task leadership, exploitation and maintenance of the living fund, the courts of law must discover reasons and conditions that lead to the infringement of the housing legislation and respond to them by enacting a ruling."

332. Serious infringements upon the rights stipulated in the Covenant are registered on the territory of Transnistria, where the Chisinau constitutional authority does not exercise any control and thus cannot ensure protection of the rights of Moldovan citizens. The right to come back to a permanent place of residence, which is a part of the right to free movement on the territory of a state, is gravely infringed upon. There is a number of cases, when persons were arrested and persecuted when trying to return to the territory on the left bank of the river Nistru. In the area controlled by the anti-constitutional regime, many cases occurred when persons, compelled in 1992 to move to the right bank of Nistru, were deprived of their flats through decisions of local "courts of law". Thus, the constitutional right of the persons to have a dwelling was and continues to be violated, because there are cases of occupying flats of the persons, who were compelled, by the Cossacks who came in Transnistria in 1992 as mercenaries, to move.

333. During many years, the anti-constitutional regime from Tiraspol exercises pressure over the inhabitants from that area to accept "transnistrian citizenship". As a result of not recognizing this regime as a subject of international law, documents issued by anti-constitutional structures are not valid, and this deprives Transnistrian inhabitants of their right to move outside the Republic of Moldova. In fact Transnistrian inhabitants are compelled to process two sets of documents, one for "internal use", and another - for moving outside the "Transnistrian republic". Custom posts, situated along Nistru, where non-legitimate "custom fees" are collected, are also used as pressure instruments. This problem was tried to be solved by signing "The Protocol Regulation regarding the reconciliation of the problems in the field of the activity of custom services in the Republic of Moldova and Transnistria" from 7 February 1996. By signing this Regulation, the administration from Tiraspol committed itself to liquidation of these illegal posts that restrict the right to free movement of the people and goods. The present actions of the Transnistrian administration violate article 5.1 of the "Agreement regarding the principles of peaceful regulation of the armed conflict in the transnistrian region of the Republic of Moldova" from 21 July 1992. It stipulates that: "These impediments for the movement of goods, services and people, will be eliminated ...".

334. The right to enter one's own country is guaranteed by the legislation of the Republic of Moldova, which establishes certain facilities for its citizens. The Parliament's Law on the process of migration No. 418-XII from 19 December 1990, foresees the migration quota that cannot exceed (according to article 4, paragraph 2) "0.05 per cent of the total number of the permanent population of Moldova". But this number does not include (on the basis of article 4, paragraph 3 of this Law):

"(a) The inhabitants of the Republic of Moldova, who were sent, removed or who moved to another country for purposes of work, study or treatment and also those who left for a military service outside the Republic;

(b) Persons released from imprisonment, who lived permanently in Moldova before committing crimes".

335. "In consequence of some objective reasons, the Parliament may restrict or suspend the immigration. Suspension or restriction of immigration does not impede upon the right of the persons, listed in article 4, paragraph 3 (a, b), to move and to live in the Republic of Moldova." (The Law of Parliament on the process of migration No. 418-XII from 19 December 1990, article 9.)

Table 6

Statistics on free movement of citizens and free choice of the residence in the Republic of Moldova

N	Year Category of persons	1993	1994	1995	1996	1997	1998	1999	2000	Total
1.	Approval of residence of aliens and stateless persons in the Republic of Moldova	57	70	61	50	283	819	876	601	2 817
2.	Approval of leaving abroad for permanent residence of the citizens of Moldova	6 397	5 236	2 690	2 765	5 503	4 783	6 318	3 794	37 486
3.	Approval of leaving abroad for temporary residence of the citizens of Moldova	75 757	101 500	170 000	188 191	176 637	140 189	123 841	88 271	1 064 386
4.	Processed entry-exit visas of aliens staying permanently or temporary in the Republic of Moldova	569	768	894	1 451	1 662	2 222	2 601	2 612	12 779
5.	Aliens expelled from the Republic of Moldova	5	8	1	1	—	—	—	—	—

Table 7

The list of aliens expelled from the Republic of Moldova in 1993-2000 (according to the Code on Administrative Offences, art. 192, and the Criminal Code, art. 210)

No.	Surname, first name	Citizenship	Year of birth	Year of expelling
1.	Sangare Lasin	Mali	1958	1993
2.	Ghedif Aile Tsegaie	Ethiopia	1966	1993
3.	Murreriua Pedro Miguăl Paulino	Mozambique	1967	1993
4.	Cun Păt	Cambodia	1965	1993
5.	Mussa Şaibu Abdulahi	Nigeria	1963	1993
6.	Nelson Miguel Lopez Perez	Nicaragua	1968	1994
7.	Albanu Da Silva Raimundu Aitonid	Angola	1973	1994
8.	Alatise Olaseinde Sandi	Nigeria	1964	1994
9.	Konare Karim	Mali	1967	1994
10.	Chevedo Ghil Eduardo	Columbia	1969	1994
11.	Makenga Sebasteanu	Angola	1971	1994
12.	Dechtear Isac Haimovici	Israel	1952	1994
13.	Camuendu Miguel Zaharias Gonsales	Angola	1966	1994
14.	Oghomwen Evelyn Uwaifo	Nigeria	1963	1996
15.	Dandashi Abdulkader	Syria	1971	1995

Article 210 of the Criminal Code of the Republic of Moldova, passed on 24 March 24 1961

336. Violation of regulations of entering, living or registering within the zone of the border,

- is to be punished by imprisonment of up to one year or by a fine in the amount of up to thirty minimal wages.

Article 192 of the Code on Administrative Offences, passed on 29 March 1985

337. Violation of regulations by aliens staying in the Republic of Moldova and of their transit through the territory of the Republic of Moldova.

338. Violation by aliens and stateless persons of the regulations of stay in the Republic of Moldova, i.e., residing in the Republic of Moldova without documents conferring the right to reside in the Republic of Moldova or residing in the Republic of Moldova with invalid documents, the failure to adhere to the established procedures for special registration or to the procedures of registration in housing registry, or the procedures of moving and selecting a place of residence, also the failure to leave the country upon expiration of the time period specified for their stay, and also violation of regulations that establish the transit through the territory of Moldova

- bring about a warning or a fine not exceeding 5 minimal wages.

339. The failure of aliens and stateless persons to adhere to the established procedures for special registration and the registration in the housing registry or their exclusion from this registry, or to the procedures of processing documents, conferring the right to stay, move and change the place of residence in the Republic of Moldova, committed by officials from enterprises, institutions and organizations, receiving aliens and stateless persons in Moldova or which ensure their service, if these officials carry out responsibilities connected with observance of the conditions of stay of aliens and stateless persons in the Republic of Moldova or of transit procedures through its territory,

– brings about a warning or a fine not exceeding 10 minimal wages.

340. A failure to take measures by the citizens, who invited for a personal purpose aliens and stateless persons in the Republic of Moldova and offered them a dwelling, necessary for ensuring their registration, inclusion in the housing registry and erasure in due time,

– brings about a warning or a fine not exceeding 2 minimal wages.

341. Making available by the citizens to the aliens and stateless persons of a dwelling space, transport or delivering to them other services, contrary to the established rules of stay of aliens and stateless persons in Moldova and contrary to the rules of their transit through the territory of Moldova,

– brings about a warning or a fine not exceeding 2 minimal wages.

ARTICLE 13

342. According to the Regulations of stay in Moldova of aliens and stateless persons, introduced by the Decision of the Moldovan Government on 6 June 1995, aliens may stay on the territory of the State only within the limits of validity of their legally granted visa of entry-exit. When the term of validity of the visa has expired, aliens must leave the country. P.25 of the Regulations of aliens and stateless persons staying in the Republic of Moldova stipulates a measure of restriction for the duration of aliens' stay:

> "The term of staying in the Republic of Moldova may be restricted for aliens who breach upon the law."

343. Expulsion is an extreme measure, applied under the grounds stipulated in article 23, paragraph 1 of the Law on legal statute of aliens and stateless persons in the Republic of Moldova. There are two legal grounds for performing the expulsion of aliens and stateless persons, and namely when:

1. Their entrance and stay in the republic are performed with the infringement of the legislation in force;

2. Their stay in the republic jeopardizes national security, public order, health or morals.

344. Article 28 of the Law on legal statute of aliens and stateless persons in the Republic of Moldova stipulates:

> "Aliens and stateless persons are expelled to the country whose citizens they are or whose authorities issued their identity documents."

345. Extradition is implemented according to the European Convention on Extradition from 13 December 1957. It stipulates in article 1:

> "The contracting parties are engaged to mutually extradite, according to rules and under conditions stipulated by the further articles, persons who are pursued for committing a crime or are wanted in order to execute punishment or a security measure by judicial authorities of the solicited party" (art. 1).

346. The lawfulness of the extradition of aliens and stateless persons is guaranteed by art. 17 of the Constitution of Moldova. It foresees that extradition may be performed only "in compliance with an international agreement or under conditions of reciprocity in consequence of a decision of a court of law". This constitutional norm is also stipulated in the Law on legal statute of aliens and stateless persons in the Republic of Moldova (art. 23, para. 2) and in the Criminal Procedure Code (art. 18^{5}, para. 2).

347. However, measures of extradition or expulsion will not be performed if they are not in compliance with article 3, paragraph 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment and Treatment from 10 December 1984. This article stipulates the following: "No State party to the present Convention will expel, repel or extradite a person to the other state, when there are serious reasons to believe that the person risks to be subjected to torture in that State."

348. The Law on legal statute of aliens and stateless persons in the Republic of Moldova reaffirms this international norm in article 29, mentioning, at the same time, the reasons for prohibiting extradition:

> "Aliens and stateless persons cannot be expelled to another country, when there are grounds to believe that they are going to be pursued because of their racial, ethnic or religious origin, or political beliefs or they will be subjected to inhuman and degrading treatment, to torture or capital punishment."

349. The Protocol No. 4 (art. 4) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified through the Parliament's Resolution No. 1298-XIII on 24 July 1997 contains interdiction on the collective expulsion of aliens.

350. Every citizen has the right to obtain effective protection from competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests. The Constitution of the Republic of Moldova guarantees free access to justice for all persons (art. 20). The Supreme Law stresses this principle in article 26:

> "Everybody has the right to respond independently by appropriate legitimate means to an infringement upon his/her rights and freedoms."

351. In compliance with the Law on Parliament Lawyers from 17 October 1997, aliens may submit their notifications to ombudsmen who have the following duties:

> "Ombudsmen examine notifications submitted by the citizens of the Republic of Moldova, aliens and stateless persons who permanently or temporary live on its territory, further referred to as petitioners, and whose legitimate rights and interests were infringed upon in the Republic of Moldova" (art. 13).
>
> "In accordance with the results of examining the complaint, ombudsmen are also entitled to:
>
> (a) Submit the request to the court of law in order to defend the interests of the petitioner, whose constitutional rights and freedoms were infringed;
>
> (b) Submit an approach to the competent authorities in order to institute disciplinary, administrative or criminal proceedings regarding the official who breached upon the law if this led to a gross violation of human rights and freedoms" (art. 28, para. 1).

ARTICLE 14

352. According to the Supreme Law of the State (art. 16, para. 2) and the Law on judicial system No. 514-XIII from 6 July 1995 (art. 8) all citizens of the Republic of Moldova are equal before the law and public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political affiliation, personal property or social origin.

353. Article 20 of the Constitution "Free Access to Justice" stipulates the following:

> 1. Every citizen has the right to obtain effective protection from competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests.
>
> 2. No law may restrict the access to justice.

354. This norm is also foreseen in article 6 of the Law on judicial system No. 514-XIII from 6 July 1995.

355. Justice shall be administered in the name of the law by courts of law only.

356. Justice shall be administered by the Supreme Court of Justice, the Court of Appeal, by tribunals and the courts of law. To hear certain categories of cases special courts may be set up under the law. It is forbidden to set up courts of exception (arts. 114, 115 of the Constitution).

357. Article 1 of the Law on judicial system No. 514-XIII from 6 July 1995 stipulates that judicial power is independent, separated from legislative and executive power, has its own tasks exercised through courts of law in accordance with the principles foreseen by the Constitution and other laws (art. 1).

358. Courts of law administer justice in order to defend and implement fundamental rights and freedoms of the citizens, their associations and also enterprises, institutions and organizations.

359. Courts of law try all cases concerning civil, administrative and penal legal relations, and also all other cases for which law does not establish the competence of other authorities (article 4 of the above-mentioned Law).

360. Justice in criminal cases shall be served in the name of law and by courts of law only. No individual can be declared guilty for the commission of a crime, or can be punished by criminal law, except based on a definitive court decision, adopted in the conditions of the present Code (article 7 of the Criminal Procedure Code).

361. In accordance with article 8 of the Civil Procedure Code and article 10 of the Criminal Procedure Code, in serving justice in criminal cases, judges are independent and they obey the law only. Judges try criminal cases in compliance with the law and in conditions that exclude exertion of any pressure upon them.

362. The Public character of legal proceedings is stipulated in art. 117 of the Constitution: "Legal hearings in all courts of law are public. Cases may be heard behind closed doors only as stipulated by law under compliance with all established legal procedures."

363. Article 10 of the Law on judicial system No. 514-XIII from 6 June 1995 stipulates:

1. Sessions of the courts of law are public. The trying of the cases in closed sessions will be carried out only in cases foreseen by law and by observing all the rules of the legal procedure.

2. Decisions of the court are pronounced publicly.

3. The trying of the cases is based on the principle of adversarial character of the criminal procedure.

364. The public character of sessions and the principle of adversarial character of the criminal procedure are foreseen by article 10 of the Civil Procedure Code and art. 12 of the Criminal Procedure Code.

365. Thus, in accordance with article10 of the Civil Procedure Code "sessions of the courts of law are public". The trying of the cases in closed sessions will be carried out only in cases foreseen by law and by observing all the rules of the legal procedure.

366. The court of law may decide the trying of the case in closed session if a public hearing would damage the parties, public order or morals, or when it is in contradiction with interests of keeping a state secret and also in other cases stipulated by law.

367. Persons under 16 years of age and persons who do not behave decently shall be removed from the court room. In all cases, decisions of the court are pronounced publicly. The trying of the cases is based on the principle of adversarial character of the criminal procedure.

368. Article 278[4] of the Code establishes, that cases shall be heard behind closed doors, when an adoptive parent requests so or when there is a decision of the court referring to it.

369. Article 12 of the Criminal Procedure Code stipulates:

> "In all courts of law sessions are public, excepting cases when it comes in contradiction with the interests of keeping a secret protected by law, and also in cases when the arrest warrant is issued or prolonged.
>
> "Cases shall be also heard behind closed doors on the basis of a grounded decision of the law court in cases regarding crimes committed by persons under 16 years of age, in cases of sexual crimes, and in other cases, in order to prevent the disclosure of information concerning private lives of the persons that take part in the trial, and also when it is required by the interests of guaranteeing the security of a victim, witness and of other persons who take part in the trial, of their family members and close relatives.
>
> "Cases may be heard behind closed doors only in compliance with all established legal procedures. Decisions of the court in all cases shall be pronounced publicly."

370. According to article 21 of the Constitution of the Republic of Moldova and article 4 of the Criminal Procedure Code, any person accused to have committed an offence shall be presumed innocent until found guilty on legal grounds, brought forward in a public trial in the course of which all guarantees for necessary defence will have been taken.

371. Article 7 of the Law on judicial system No. 514-XIII from 6 July 1995 foresees the presumption of innocence, stipulating: any person accused to have committed an offence shall be presumed innocent until found guilty on legal grounds and on the basis of the final sentence rendered by the court.

372. The person carrying out the penal pursuit, criminal investigation officer, public prosecutor and the court of law shall ensure to the parties full exercise of procedural rights during the trial, in conditions stipulated by the Criminal Procedure Code and bring necessary evidence for defence.

373. The person carrying out the penal pursuit, criminal investigation officer, public prosecutor and the court of law shall notify, during the trial, the suspect, indicted and defendant of the offence of which he is suspected or accused, of the legal qualification of the offence, and to ensure the possibility of defence using the means foreseen by law and also protection of their personal and patrimonial rights.

374. The person carrying out the penal pursuit, criminal investigation officer, public prosecutor and the court of law shall notify, during the trial, the suspect, indicted and defendant of their right to defend themselves in person or through legal assistance, by recording these in the official report, and in compliance with conditions and cases stipulated by law, to ensure their right to legal assistance, if they do not have a counsel of their own choice or sufficient means to pay for him.

375. During the trial, parties have the right to be assisted by a counsel either chosen or appointed (article 13 of the CPC). According to article 26 of the Supreme Law, the right of defence is guaranteed. Everybody has the right to respond independently by appropriate legitimate means to an infringement upon his/her rights and freedoms. Throughout the trial the parties have the right to be assisted by a lawyer, either chosen or appointed ex officio.

376. The Criminal Procedure Code in articles 41, 42, 43, 44, 45 establishes: the defender that is chosen or appointed ex officio is admitted to the trial since the indictment, and in the case when the suspect or indicted is detained in custody or arrested - from the moment of his acknowledgement of the minute of detention or from the moment of presentation of the arrest warrant. If the attendance of the lawyer chosen by the suspect/indicted is not possible, then the person carrying out the penal pursuit, criminal investigation officer, public prosecutor shall ask the suspect or indicted to choose another counsel or provide him with a counsel through the bureau of legal assistance.

377. The counsel's participation in penal pursuit, criminal investigation and legal hearings is compulsory in trials involving minors, dumb, deaf, blind and other persons, who cannot themselves exercise the right to defence as the result of physical or mental disability, and also in trials involving persons who do not speak the language in which the legal proceedings are carried out. In these cases the counsel is admitted to the trial from the moment mentioned in paragraph 1.

378. In the trials involving persons accused of committing offences punishable with life imprisonment, the participation of the counsel is compulsory from the moment when he is informed of the indictment.

379. Participation of the counsel in the trial can also be compulsory in other cases established by legislation. Counsels can be lawyers, but other persons having a corresponding licence can also be admitted based on the decision of the judge, investigator or a court ruling.

380. In cases when the suspect, indicted or defendant do not have a lawyer, the chief of legal assistance or the presidium of the bar association have the obligation, based on a request of the court or the criminal investigation body, to appoint ex officio a counsel to defend the suspect, indicted or defendant.

381. The costs of remuneration of lawyers participating ex officio in the penal pursuit, criminal investigation and legal hearings will be covered from the budget.

382. The convict can be asked to recover the costs incurred by the state only in the case when the former, having means of remunerating the counsel, did not desire to sign an agreement with him (art. 43).

383. Participation of the counsel in legal proceedings is compulsory in cases:

1. Involving a State prosecutor;

2. Involving minors;

3. Involving dumb, deaf, blind and other persons, who cannot themselves exercise the right to defence as the result of physical or mental disability;

4. Involving persons not speaking the language in which legal proceedings are carried out;

5. Involving persons with opposite interests regarding defence and if at least one of them has a counsel;

6. Involving persons sent to court for offences punishable with life imprisonment;

7. When the defendant asks for a counsel to be appointed;

8. Concerning enforcement of coercive measures of medical character.

384. If in the above-mentioned cases the indicted, his legal representative or other persons authorized by the former have not employed a counsel, the court is under obligation to ensure the participation of a counsel in the trial (art. 44).

385. A counsel can be replaced by another counsel at any time during the trial, only at request or with consent of the suspect, indicted or defendant. In this case the investigation continues.

386. In cases when participation of the counsel chosen by the suspect or indicted is impossible and also in cases when attendance of the counsel admitted to the trial at the time of indictment is not possible within five days from the moment when he was informed, the criminal investigation officer and the public prosecutor offer the suspect, indicted or defendant the right to invite another counsel or appoint a counsel through the bureau of legal assistance.

387. The suspect, indicted or defendant have the right at any time during the trial to dismiss the counsel.

388. Dismissal of the counsel can only be the initiative of the suspect, indicted or defendant and cannot constitute an obstacle for the prosecutor or the counsels of other suspects, indicted and defendants to further participate in the trial (art. 45).

389. The person suspected or detained as suspected of committing an offence, or subjected to repressive measures prior to indictment is entitled to the following rights: to have a counsel, to know the offence that he is suspected of, to give explanations, to provide evidence, to submit requests, to examine the minutes of investigation proceedings carried out with his participation, to make challenges, to complain about the actions and decisions of the person carrying out the penal pursuit, criminal investigation officer, public prosecutor and the court of law; to give explanations during the process of examination by the court of the approach concerning the application of preventive arrest (art. 41).

390. The indicted has the right: to know the reason of his accusation and to give explanations regarding this accusation, to provide evidence, to submit requests, to appeal in a higher-level court the legality and grounds of arrest; to examine the minutes of investigation proceedings

carried out with his participation; to examine the content of the file and to make necessary notes after the penal pursuit or preliminary investigation is over; to have a counsel from the moment of indictment; to give explanations during the process of examination by the court of the approach concerning the application of preventive arrest towards him; to participate at the examination by the judge of the approach regarding the prolongation of arrest and at the examination by the court of the recourse regarding the legality of application of preventive arrest or prolongation of arrest; to participate in legal hearings; to make challenges; to complain about the actions and decisions of the person carrying out the penal pursuit or the criminal investigation officer, public prosecutor and the court; to defend his legitimate rights and interests by any other means and methods that do not breach upon the legislation. The defendant has the right to last word (art. 42).

391. According to article 118 of the Constitution, article 11 of the Criminal Procedure Code and article 9 of the Law on judicial system No. 514-XIII from 6 July 1995, the legal proceedings may be conducted in the Moldovan language or in any other language found to be acceptable by the majority of the persons participating in the legal proceedings. Those persons who do not know or are unable to speak Romanian (Moldovan) language have the right to take knowledge of all documents and materials on file and to address the court through an interpreter.

392. The same article of the Criminal Procedure Code stipulates that persons participating in the trial who do not speak the language of the legal proceedings, are guaranteed the right to make declarations, approaches, to examine all materials on file, to address the court in native language and to enjoy the services of an interpreter according to the Code. Documents of penal pursuit and of the court, in compliance with the present Code, are handed to the defendant, after being translated into his native language or any other language that he speaks.

393. The Criminal Procedure Code stipulates in article 14: "The person who carries out the penal pursuit, criminal investigation officer, public prosecutor must take all measures foreseen by law in order to perform a complete and objective investigation of all circumstances of the case, to bring into light both circumstances inculpating and exculpating the suspect, indicted or defendant and also circumstances that extenuate or aggravate his guilt."

394. The courts of law examine all aspects of the evidence submitted by the parties to the trial.

395. The persons carrying out penal pursuit, criminal investigation officer, public prosecutor shall not make the suspect, indicted or defendant provide evidence.

396. It is prohibited to force the suspect, indicted or defendant to make declarations by using violence, threat or other illegal measures.

397. The Constitution of the Republic of Moldova guarantees in article 25 individual freedom and personal security.

398. The guarantee of the freedom constitutes a rule of the criminal procedure. Everyone who is liable to be tried or punished or is tried by the court must be treated with respect to his human dignity.

399. The Criminal Code of Moldova establishes in article 10 criminal liability for persons who reached 16 at the moment of committing the offence.

400. Persons aged 14 to 16 who committed offences are held liable only for murder, deliberate infliction of bodily and health harm that led to deterioration of health, rape, burglary, robbery, theft, misappropriation of property on extremely large scale, serious and extremely serious hooliganism, deliberate destruction and deterioration of the owner's property, misappropriation of narcotic substances and guns, munitions and explosives, as well as deliberate commitment of certain actions that could cause derailment of a train.

401. Article 3, paragraph 2 stipulates that when establishing the penalty for a person, who was under 18 at the moment of committing offence, the term of imprisonment cannot exceed 10 years. When a minor aged 16 to 18 committed an offence punishable by imprisonment, the term of imprisonment cannot exceed 15 years.

402. According to article 60 of the Criminal Code, if the court finds that juveniles under 18 years, who committed a less serious crime, may be corrected without imposing a criminal penalty, the court may apply certain measures of an educational character (obliging the minor to ask forgiveness publicly or in other way established by court from the damaged person, reprimand or a severe reprimand, warning, obliging the minor, who reached 15, to make restitution for the damage he has caused, if the minor has his own income and if damage does not exceed one minimum wage, the remanding of the minor in question to a strict supervision of parents or persons replacing them, the remanding of the minor to the supervision of labour collective, of a public organization with their consent or with the consent of certain citizens at their request, the placement of the minor in question in a special educational and training institution or treatment and training institution).

403. The Criminal Procedure Code in article 5-6 establishes that court is entitled to cease a criminal trial of a person under 18 years who committed an action that contains elements of the less socially dangerous offence, and to send the materials for the examination to the Commission for minors, if according to the circumstances of the case and information that characterizes the personality of the offender, his/her correction is possible to achieve without executing criminal penalty.

404. The indicted and his legal representative, and also the injured person and his/her representative are informed of the cessation of the trial before it is sent for examination to the Commission for minors. The persons mentioned above are entitled to appeal the decision of the court to a higher level court during 7 days.

405. In accordance with article 25 of the Constitution, individual freedom and personal security are declared to be inviolable (para. 1).

406. Searching, detaining in custody or arresting a person shall be permitted only if based on the authority of law (para. 2).

407. The period of detention in custody may not exceed 24 hours (para. 3).

408. Persons may be arrested only based on warrant issued by a magistrate for a maximal time limit of 30 days. The time limit of detention may be extended to 6 months and in exceptional cases, if approved by a decision of the Parliament, to 12 months (para. 4).

409. The person detained in custody or arrested shall be informed without delay of the reasons for his detention or arrest, as well as of the charges made against him her, which may take place only in the presence of a lawyer, either chosen by the defendant or appointed ex officio (para. 5).

410. If the reasons for detention in custody or arrest have ceased to exist, the release of the person concerned must follow without delay (para. 6).

411. Article 73, paragraph 3 of the Criminal Procedure Code stipulates that preventive measures towards a minor may include: personal guarantee or guarantee of one public organization or supervision on the behalf of the parents, guardian, quasi guardian; as for minors who are placed in educational institutions of a closed type - supervision towards them may be performed by the administration of these institutions. The preventive arrest may be carried out towards minors only in exceptional cases, taking into consideration the gravity of the committed crime.

412. For indicted minors who were under 16 at the moment of committing the crime, the length of keeping under arrest may be prolonged to only 4 months, and for indicted minors, who were under 18 at the moment of committing crime, the length of arrest can not exceed 6 months (art. 79, para. 3).

413. Legal assistance for the indicted or defendant minors is compulsory (art. 44 of the Criminal Code).

414. Presumption of innocence, as a principle of the entire criminal procedure, makes the respect of fundamental human rights and freedoms a very important issue; so that the restrictions of these rights, which are imposed by the criminal law, are not abusive or excessive.

415. A teacher will be called to assist at the examination of the witness under 14 and, when the court considers it necessary, at the examination of the witness aged 14 to 16. When it is necessary, the parents, adoptive parents, guardians or quasi guardians of minors are called. After examination, the witness who reached 16 leaves the court room, except in cases when the court considers that the presence of that witness is necessary (arts. 170, 173 - the Civil Procedure Code; arts. 132, 139 - the Criminal Procedure Code).

416. At present, negative influence of the economic factors led to a dramatic decrease of the living standard and increase of poverty that became a mass phenomenon. Unfavourable family situations pushes children from poor families to leave their homes and to live in the street under the influence of delinquents. The lack of financial resources in families pushed some parents to use their children for anti-social activities like: prostitution, theft, beggary.

417. Characterizing population under 18 according to their age and sex, we would like to mention that 19 per cent are children aged 0-4 and 81 per cent children aged 5-18, over 49 per cent - females, 51 per cent - males, about 63 per cent live in villages.

and 37 per cent - in cities. More than one third of children come from poor families and they constitute the basis of the "risk group". Their condition depends on the well-being of their parents which, in conditions of the prolonged economic crisis continuously worsens.

418. The largest percent of all offences constitute offences against property - 77 per cent. The number of the cases inflicting gross bodily and health harm increased by 88 per cent, blackmail - three times.

419. In 1990, 1595 minors were tried by criminal law, 8 of which - for deliberate murder, 1241 - for misappropriation of owner's property; in 1998, 1582 minors were tried by criminal law, 6 of which for deliberate murders and 1348 for misappropriation of owner's goods. In 1999, 1531 minors were tried by criminal law, 5 of which for deliberate murder, 12 - for deliberate infliction of bodily harm, 17 - for rape, 57 - for hooliganism, 64 - for drug use, 1291 - for theft.

420. The system of sanctions for minors includes two forms of restricting their freedom and namely:

- educational measures that include placing a minor in a centre for re-education;
- imprisonment.

421. The measure of placing the person in a centre for re-education may be applied only towards minors under 18. It can be prolonged, but not exceed 2 years, if it is considered to be necessary for implementing educational regime of the enforced measure. There are two centres for re-education in the Republic of Moldova.

422. Chapter 14 of the Code of execution of criminal law sanctions foresees the enforcement of a punishment for minors through imprisonment. Thus, according to article 106 of the Code mentioned above, minors convicted to imprisonment serve their sentence in colonies for re-education.

423. Article 116 of the same Code foresees the organization of the process of instruction and education. In order to correct the convict and prepare him/her for independent work in the society, a unique process of instruction and education is organized in the colonies of re-education, aimed at the education of the minor convict in the spirit of respect of law, consciousness towards work and studies, morality, increase of the general education level, professional instruction. The educational activity is performed depending on individual particularities of the convict, his personality, level of his education or life experience.

424. Also training of convicts with incomplete secondary education is enforced in colonies of re-education, to the extent of possibilities. General and vocational education is based on secondary school and applied instruction workshops, the latter not exceeding 10 hours per convict. Technical and material endowment of the educational, instructive and production process is performed by departments of the Ministry of Justice. Methodological administration and control over the educational and instructive process is ensured by the bodies subordinated to the Ministry of Education and Science.

425. The convict who turned 18 and who has not shown improvement can be transferred from the colony of re-education to the colony of correction with a common regime in order to further serve the sentence. The convict who turned 20 is transferred from the colony of re-education to the colony of correction or to the colony-settlement in order to further serve the sentence, depending on the social danger of the committed offence and his/her behaviour. The transfer of the convict from the colony of re-education to the colony of correction is decided by the court on the basis of the petition submitted by the colony chief.

426. The convict who started to correct, being in colonies of re-education, may be transferred, three months before expiration of sentence, from the common conditions of detaining to the conditions aimed to his re-socialization, in order to be prepared for the life in society. In this case he lives in the region of social rehabilitation situated outside the colony under supervision only, without being guarded. The convict placed in conditions of re-socialization may be proposed, according to the law, for conditional release before expiration of sentence or for commutation of the non-executed part of the sentence.

427. The term of imprisonment can be diminished by enforcing conditional release. Thus, if at least one year passed since the moment when the minor was placed at a centre of re-education, and he has shown considerable improvement, then he can be granted freedom before reaching majority. Minors serving a sentence in prison, when reaching the age of 18, can be granted conditional release, if they have already served a part of the sentence and have shown considerable improvement. Convicts over the age of 18, can be granted conditional release, according to the same procedure as for adults.

428. The Republic of Moldova has a Boys Colony of re-education through labour in Lipcani. According to the data of the Department of penitentiary institutions within the Ministry of Justice, the number of minors in colony is the following:

1 January 1993 - 253; 1 January 1994 - 269; 1 January 1995 - 231; 1 January 1996 - 226; 1 January 1997 - 183; 1 January 1998 - 151; 1 January 1999 - 148; 1 January 2000 - 65; 1 June 2000 - 76 (of which 23 are adults).

429. In 1999, through the Decree of the President of the Republic of Moldova a considerable number of convicts-minors were amnestied. The structure of convicts-minors before 1 June 2000 is the following:

(a) according to the offence committed:

- murder - 16;
- light bodily harm - 1;
- rape - 14;
- theft - 17;
- burglary - 19;

- theft of extremely large scale - 4;
- use and possession of drugs - 1;
- other offences - 4.

(b) according to the term of detention:

- 3 years - 16 minors;
- 5 years - 15 minors;
- 10 years - 43 minors;
- 15 years - 2 minors.

(c) according to the level of education:

- 1 - no education;
- 16 - incomplete secondary education;
- 59 - secondary education.

(d) according to the criminal record:

- 17 - with criminal record;
- 59 - with no criminal record.

430. A general school for completing secondary education and also a vocational school function within this Colony. Convicted minors are also provided with a sport centre, cinema, concert hall and library.

431. The administration of the Colony holds sport competitions, concerts, meetings with missionaries of different religious confessions, annual meetings with parents. Parents do not have any restriction in meeting their children.

432. The conditions of maintaining minors in the Colony are much better than the conditions from penitentiaries where adults are detained. The food is supplied three times a day. Through the Decision of the Government No. 246 from 13 May 1993, norms of supplying food to imprisoned minors are established. The receipt of parcels addressed to minors is not limited. Minors are supplied with clothes by the institution and also are allowed to use clothes brought by their relatives. The administration of the colony distributes to the detained minors humanitarian aid offered by charitable organizations, both national and international.

433. The colony possesses agricultural land, where minors capable of work are engaged in cultivation of their own food products.

434. Female minors are detained in a special section with a normal regime within the penitentiary for women (adults) from the locality called Rusca. The number of the female minors detained is the following:

1 January1993 - 9; 1 January 1994 - 14; 1 January 1995 - 9; 1 January 1996 - 12; 1 January 1997 - 5; 1 January 1998 - 8; 1 January 1999 - 5; 1 January 2000 - 5; 1 June 2000 - 5.

435. Female minors also practice certain professions (especially tailoring) and have the same regime of access to humanitarian aid and meetings with parents. But they do not have the possibility to continue secondary education.

436. Article 53 of the Constitution of the Republic of Moldova stipulates:

1. Any person, whose rights have been trespassed upon in any way by public authority through an administrative ruling or lack of timely legal reply to an application, is entitled to obtain acknowledgement of those rights, the cancellation of the ruling and payment of damages.

2. The State is under patrimonial liability as foreseen by the law for any prejudice or injury caused in lawsuits through errors of the police or the judiciary.

437. According to article 478 of the Civil Code the prejudice caused to individuals and legal entities as a result of illegal actions committed by the bodies who carry out penal pursuit, preliminary investigation, by the public prosecution office and law courts, is completely paid by the State, regardless of the guilt of the officials who activate within the authorities that carry out penal pursuit, preliminary investigation, public prosecutor and law courts, as foreseen by law.

438. In accordance with article 51-1 of the Criminal Procedure Code: in case when the trial is ceased, because the offence does not exist in reality, or because the constitutive elements of the offence are missing from the committed action, and also because a sentence of acquittal is rendered, the authority that carries out penal pursuit, criminal investigation officer and law court have as their obligation to explain to the citizen the method of reinstating in his infringed rights, and to also take the following measures, foreseen by law: payment of the prejudice caused to the citizen as a result of the illegal sentence, of being illegally tried by criminal law, or of illegally enforcing preventive arrest.

439. The conditions and the method of paying the prejudice are established by the legislation of the Republic of Moldova.

440. Thus, according to the Law regarding the method of paying the prejudice caused by illegal actions of the authorities that carry out penal pursuit or preliminary investigation, the public prosecution office and the law courts, No. 1545-XIII from 25 February 1998, the moral and material prejudice is paid, when it is caused to individuals or legal entities as a result of:

(a) illegal detention in custody, illegal enforcement of the repressive measure of keeping under arrest, illegal trying by criminal law, or illegal sentence;

(b) illegal performance, in case of investigating or trying a criminal case, of search, seizure, property sequestration, dismissal from the occupied position and other procedural actions that limit the rights of individuals and legal entities;

(c) illegal administrative arrest, confiscation of property, illegal application of a fine;

(d) operative measures of investigation that infringe upon the law provisions;

(e) illegal seizure, as a result of search, of book-keeping records, other documents, of money, seals, and as a result of blocking bank accounts.

441. The prejudice caused is paid entirely, regardless of the guilt of the officials who activate in the authorities that carry out penal pursuit, preliminary investigation, in the public prosecuting office and law courts.

442. The right to be paid for caused prejudice, in the amount and according to the method established by the law mentioned above, appears in case of:

(a) rendering the sentence of acquittal;

(b) ceasing penal pursuit, because the committed actions do not constitute an offence or evidence that proves participation of the person in committing the offence is missing;

(c) rendering, by the court, the ruling concerning cancellation of the administrative arrest as a result of the person's rehabilitation;

(d) passing by the European Court for Human Rights or by the Committee of Ministers of the European Council of the resolution regarding the payment of prejudice or concluding a conciliatory agreement between the aggrieved person and the representative of the Government of Moldova in the European Commission on Human Rights and the European Court on Human Rights. The above-mentioned agreement shall be approved by the Government of the Republic of Moldova;

(e) carrying out operative measures of investigation, with infringement upon the law provisions, prior to opening a criminal file, if during 6 months from the moment when these measures were carried out, the decision of opening a file was not taken or cancelled (art. 4).

443. After the notification of ceasing the file at the stage of penal pursuit or preliminary investigation, or on the basis of the copy of an acquittal sentence, or on the basis of the court's ruling, the individuals (and in case of death - their heirs) or legal entities are given a notification in standardized form, which establishes the right and method of paying the prejudice.

444. When the information about the fact, that the person was sentenced or tried by criminal law or that a preventive arrest towards the person was enforced, was made public through mass media, the editorial offices that published that information, upon request from the authorities carrying out penal pursuit and preliminary investigation, public prosecutors or law court, shall notify the public opinion, with their own financial resources and within one month from receiving the request, about the decision of rehabilitation of the person (art. 7).

445. The payment of the caused prejudice is made from the State budget and also from the Social Fund's budget through its territorial body in the jurisdiction of the domicile of the individual, and if the prejudice was caused by the authority that carry out penal pursuit financed from the local budget - the payment is performed from this budget (art. 10).

446. The individual dismissed from his position on account of an illegal sentence, or suspended from his position on account of his being illegally tried by criminal law, is restored in his previous position and in case of impossibility (liquidation of the enterprise, institution, organization, personnel cuts) the person is offered a place of work (position) equivalent to the previous one. The place of work (position) shall be offered to the person within a term not exceeding one month from the day when the request was submitted, if it was submitted within three months from the day when the person received notification about the fact that the sentence of acquittal is final or that the ruling regarding the closing of the file was passed (art. 11).

447. The period of time, when the person was illegally put under arrest, or when the person was executing the punishment, and also the period of time during which the person did not work because of illegal suspension from the occupied place of work, are included in the total work experience or work experience within a field (art. 12).

448. When the person lost the right to dwelling space as a result of illegal sentence, the authorities of the local public administration shall return to the person the previously detained dwelling space and if it is impossible, they shall offer the person an equivalent dwelling space in the same locality, outside the order sequence of offering dwelling space (art. 14).

449. The State, local public authorities, after paying the prejudice caused by illicit actions of the authorities that carry out penal pursuit or preliminary investigation, the public prosecution office and law courts, must submit to the guilty persons the request of paying the caused damages:

(a) in whole - when the guilt of the official persons is proved by the final sentence;

(b) in part - on the basis and in conditions established by law (art. 17).

ARTICLE 15

450. According to article 22 of the Constitution of the Republic of Moldova, no one shall be sentenced for actions or omissions which did not constitute an offence at the time they were committed. Also, no punishment shall be given that is harder than that applicable at the time of committing the offence.

451. Article 6 of the Criminal Code stipulates that the criminal character of the action and application of a penalty for it, are established by the law that was in force at the time of committing the offence.

452. The Law that eliminates the penalty for an offence or makes it easier has a retroactive effect, if it also covers offences committed before it was issued.

453. The Law that eliminates or aggravates the penalty for an offence does not have a retroactive effect.

ARTICLE 16

454. The Constitution of the Republic of Moldova foresees the right of everybody to know his/her rights and duties. Thus, article 23 of the Constitution stipulates:

1. Every one has the right to an acknowledged legal status.

2. The State ensures the right of everybody to know his/her rights and duties. For that purpose the State shall publish all its laws and regulations and make them accessible to everybody.

455. According to the Civil Code, civil rights and obligations are initiated on the ground foreseen by the legislation of the Republic of Moldova and from the acts performed by the citizens and organizations, which although not foreseen by law, generates civil rights and obligations according to general principles and civil legislation (art. 4).

456. The defence of civil rights is performed according to the rules established by the competent law court or chosen arbitrators: through recognition of these rights, by re-establishment of the situation that existed before the right was violated and by ceasing acts that violate the right; by compelling that person to execute his obligation in nature; by ceasing or modifying the legal relationship; by obliging the person who breached upon the right to pay the caused damages, and in cases foreseen by law or agreement - penal clause and other means established by law.

457. In cases specifically foreseen by law the protection of civil rights is implemented through administrative procedures (art. 6).

458. The capacity to have civil rights and obligations (civil capacity to use rights and to have obligations) is legally recognized to all citizens of the Republic of Moldova.

459. The capacity to have civil rights and obligations starts when the person is born and ends when the person dies (art. 9).

460. According to the law, citizens may have goods in personal property, may have the right to use their dwelling space and other goods, may inherit and test goods, may choose the occupation and residence, may have copyright upon scientific, literary and art works, also upon discoveries, proposals of rationalization, industrial prototypes and other property and personal rights (art. 10).

461. The full capacity of the citizen to obtain through his/her acts civil rights and to assume civil obligations (civil capacity to exercise rights and obligations) appears at the age of 18.

462. When the law allows to conclude a marriage before the age of 18, the citizens under 18, obtains a full capacity to exercise rights and obligations from the moment when marriage is concluded (art. 11).

463. No one shall be limited in his/her capacity to have or to exercise rights and obligations, except in cases and in compliance with the law.

464. Agreements having a purpose of limiting the capacity to have or to exercise rights and obligations are void (art. 12).

465. Minor wards between 15 and 18 years of age conclude agreements with the consent of their parents, adoptive parents and quasi-guardians.

466. At the same time they have the right to dispose themselves of their wage (income) or scholarship, exercise themselves their rights of author and inventor over their works, inventions, proposals of rationalization, industrial prototypes and their discoveries, and also to conclude minor agreements for satisfaction of their current needs.

467. When there are sufficient reasons, the guardian authorities may, at their own initiative or at the request of the parents, adoptive parents, quasi-guardians, public organizations or other interested persons, restrict minors aged 15 to 18 of their right to dispose themselves of their wage (income) or scholarship or to deprive them of this right (art. 13).

468. On behalf of minors under 15, agreements are concluded by parents, adoptive parents or guardians.

469. Minor wards under 15 have the right to conclude minor agreements for satisfaction of their current needs (art. 14).

470. The person, who as a result of excessive alcohol or drug use puts his/her family in a difficult material situation, can be restricted by the court of the capacity to exercise his/her rights and obligations and a quasi-guardian is instituted over him/her.

471. This person may conclude agreements, that would allow him/her to dispose of goods, or receive a wage, pension or other kinds of income and to dispose of them, only with the consent of the quasi-guardian, excepting minor agreements for satisfaction of their current needs (art. 15).

472. Citizens, who are incapable acting on their own or understanding the meaning of their acts, as a result of mental alienation or debility, may be declared incapable by the law court. In this case guardianship is instituted.

473. On behalf of the person in State of mental alienation or debility and who was declared as incapable, conventions are concluded by his/her guardian.

474. If the citizen declared incapable has recovered or his health has considerably improved, the court declares him/her as capable. On the basis of the court's decision guardianship is revoked.

ARTICLE 17

475. In accordance with article 28 of the Constitution of the Republic of Moldova, "the State shall respect and protect private and family life".

476. "The family is the natural and fundamental constituent of society and as such has the right to be protected by the State and by society. The family is founded on the freely consented marriage of husband and wife ..." (article 48, paragraphs 1, 2 of the Constitution).

477. "By economic and other actions the State shall support the formation and development of families, and the fulfilment of their duties" (article 49, paragraph 1 of the Constitution).

478. In the Republic of Moldova "the family is under the protection of the State", that takes all necessary measures for its multilateral development (the Marriage and Family Code, article 5). According to the constitutional provisions (art. 29), "the domicile is inviolable". No one may enter upon or stay on the premises of a domicile without the owner's consent. Searches and questioning in a domicile may be ordered and carried out only in accordance with the rule of law. Except for cases where an obvious offence has been committed, night searches are forbidden.

479. The law shall allow for derogation from the provisions mentioned above under the following circumstances explicitly foreseen in the Constitution: for executing an arrest warrant or a decision of a court of law; for preventing imminent danger threatening life, physical integrity or property of a person; for preventing the spread of an epidemic disease (art. 29, letters "a", "b", "c").

480. The conditions and the method of conducting searches are stipulated in the Criminal Procedure Code (arts. 148-149).

481. The State shall ensure the privacy of letters, telegrams, other postal dispatches, telephone conversations and of using other legal means of communication (the Constitution of the Republic of Moldova, article 30).

482. Governed by the role of law, the Republic of Moldova is a democratic State in which the dignity of people represents a supreme value, that shall be guaranteed, and respect and protection of a person is the foremost duty of the State (the Constitution of the Republic of Moldova, articles 1 (3) and 16 (1)).

483. "The freedom of expression shall not harm the honour, dignity or rights of other people to have and express their own opinions or judgements (the Constitution of the Republic of Moldova, article 32 (2)).

484. Every child has the right "to the protection of his honour and dignity". Infringements upon the child's honour and dignity are punished by law (the Law on the rights of children, article 17).

485. "Every citizen has the right to obtain effective protection from competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests" (the Constitution of the Republic of Moldova, article 20).

486. "Aliens and stateless persons are equal before the law and public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, personal property or social origin" (the Law on legal statute of aliens and stateless persons in the Republic of Moldova", article 5, paragraph 3).

487. The Criminal Code foresees criminal liability for illegally performing searches, evacuations or other actions that infringe on the inviolability of the citizen's residence (art. 136).

488. An unlawful opening of correspondence addressed to other persons, illegal interception of a conversation or communication performed through telephone or other means of distance transmission, misappropriation, destruction or hindering of correspondence from being transmitted, and also disclosure of the content of illegally intercepted conversation or communication, are under criminal liability. The word "correspondence" has a meaning of a message transmitted by post, telegraph, telephone or by any other legal forms of distance transmission (Criminal Code, article 135).

489. According to article 7 of the Civil Code, any individual has the right to require through the court the denial of information that damages his/her honour and dignity. When the honour and dignity of a person were injured as a result of spreading false information, the person is entitled to require through the court the compensation of the caused moral prejudice (Civil Code, article 7-1).

ARTICLE 18

490. These freedoms are mentioned in the Constitution of the Republic of Moldova. The State recognizes and guarantees all its citizens the right to preserve, develop and express their religious identity (art. 10, para. 2). All citizens of the Republic of Moldova are equal before the law and public authorities, without any discrimination as to religion (art. 16, para. 2). Aliens and stateless persons shall enjoy the same rights as the citizens of the Republic of Moldova (art. 19, para. 1). These rights are also stipulated in article 14 of the Law on legal statute of aliens and stateless persons in the Republic of Moldova: "Aliens and stateless persons, domiciled in the Republic of Moldova, are guaranteed the freedom of conscience, opinion and expression, in conformity with the legislation in force."

491. Article 31 of the Constitution is totally dedicated to the right of citizens to freedom of conscience. The State explicitly guarantees the possibility of the person to have and publicly express his/her thoughts about the world, specifying that "manifestations of the freedom of conscience should be in a spirit of tolerance and mutual respect", in their mutual relationships

religious cults "are forbidden to use, express or incite to hatred or enmity". Religious cults are autonomous vis-à-vis the State and shall enjoy the latter's support, "including that aimed at providing religious assistance in the army, in hospitals, prisons, homes for the elderly and orphanages".

492. According to the Constitution, the State ensures under the law the freedom of religious education (art. 35 (8)), and the priority right of choosing an appropriate educational background for children lies with the parents (art. 35 (9)).

493. In accordance with the Law on education, parents or guardians have the liberty of choosing for their children institutions of education, including religious institutions, in conformity with their own convictions (art. 60). Education is aimed at developing in children the respect for human rights and freedoms, regardless of their ethnic or social origin and attitude towards religion (art. 5, b).

494. The right of the children to freedom of thought, opinion and confession cannot be infringed upon in any way (The Law on the rights of children, article 8).

495. The freedom of conscience and religion is further developed in the Law of the Republic of Moldova on cults. In accordance with this Law "the State guarantees the freedom of conscience and religion throughout the entire territory of the Republic of Moldova". In conformity with article 18 of the Covenant, the above-mentioned Law stipulates that everyone has the right to freely profess in any form his religion, individually or by association, to spread his faith, to exercise worship in public or privately. Under articles 7 and 9 of the Law on cults, the State ensures the freedom of cults to organize and function and guarantees that "religious holidays recognized by the State are destined to leisure and spiritual elevation". Cults are organized according to their own norms, depending on their teachings, canons and traditions, having, at the same time, the right to create associations and foundations (art. 10).

496. According to article 32 of the Law on cults these are autonomous, separated from the State, but at the same time supported by the State in their activity.

497. Religious activities and ceremonies are held freely, and authorities of the State power must adopt necessary measures for facilitating religious assistance in military and police unions, in prisons, hospitals, social institutions and other State institutions (art. 33).

498. Cults recognized by the State have the right to manufacture and sell the objects of cult, and namely objects specific to their cult, to establish media, to publish and market books of cult, of theological and clerical content, necessary for practicing the cult, to organize within the borders of the State or abroad exhibitions of cult objects, including exhibitions for sale (art. 35).

499. According to the Law on cults, these are free "to organize education aimed at preparing their personnel" (art. 40), as for students of seminaries and theology departments "they enjoy all rights and facilities foreseen for pupils and students enrolled in public education" (art. 41).

500. The Law on cults also prescribes that "no one shall be sued for his faith or lack of thereof". The faith or lack of thereof, the activity within the framework of a cult, recognized by the State, "can neither impede anyone to obtain and exercise his civil and political rights, nor can it exempt anyone from his obligations prescribed by the legislation" (art. 2).

501. Abusive proselytism is prohibited in the Republic of Moldova on the basis of the Law on cults (art. 1/1) being qualified as "... an attempt to influence the religious conscience of a person through violence and power abuse". Article 3 of this Law guarantees freedom of confession, i.e., no one can be constrained from the practice or non-practice of a religious ritual associated with a certain cult, or from financially contributing to a certain cult.

502. The State established alternative service, by law, for citizens, who cannot fulfil military service because of confessional reasons (the Law on cults, article 5).

503. The Law on alternative service establishes, in conformity with the Constitution and norms of international law, the method of replacing military service with alternative service, with the purpose of ensuring the framework for manifesting civic duty towards the society, "compatible with the right of the citizens to freedom of thought, conscience, religion and beliefs" (art. 1). In accordance with this Law, citizens of the Republic of Moldova have the right to refuse the performance of military service, because of their religious or pacifist beliefs, but in this case they must perform alternative service (art. 3). These are the following categories of people who shall not be incorporated in alternative service "... the servants of cults, monks and disciples studying at institutions of theological education" (art. 5).

504. The impediment of exercising religious rituals, if they do not disturb public order and are not accompanied by infringement upon citizens' rights, leads to criminal liability (Criminal Code, article 144). Also, persons who violate laws and rules regarding autonomy of church from the State and the autonomy of school from the church (Criminal Code, article 142), and violate, by performing religious rituals, the rights of persons and citizens, are also under criminal liability (Criminal Code, article 143).

505. According to article 54 of the Constitution, the exercise of certain rights or freedoms may be restricted only under the law and only as required in cases like: the defence of national security, of public order, health or morals, of citizens rights and freedoms, the carrying out of the investigations in criminal cases, preventing the consequences of a natural disaster or of a technological disaster. The enforced restrictions must be proportional to the situation that caused them, and may not affect the existence of that right or liberty.

506. The Constitution of the Republic of Moldova prohibits, and the law punishes the instigation to religious hatred (art. 32, para. 3).

507. The Law on legal regime of the extraordinary situation and on special forms of governing in the Republic of Moldova does not foresee restrictions that would lead to infringement on citizens' rights stipulated in article 18 of the Covenant.

508. The Government of Moldova refused the registration of the "Mitropolia Basarabiei". The latter, exercising its right to free access to justice attacked this decision in court, that upheld the Government's decision. Thus, exhausting all internal ways of attacking the Government's decision, "Mitropolia" addressed on 3 June 1998 the European Court for Human Rights (ECHR), this request being registered on 26 January 2000. On 10 November 1999 ECHR sent to the Government of Moldova a communiqué, requesting comments of the latter. The Government of Moldova sent to ECHR in February 2000 its comments concerning the legal grounds of the request filed by "Mitropolia Basarabiei". At the moment the Government is waiting for ECHR's decision.

ARTICLE 19

509. The freedom of all citizens of publicly expressing their thoughts, opinions, religious faiths and spiritual creations of any kind, by way of word, by writing, by image, sounds or any other means of communication in public is guaranteed by the Constitution of the Republic of Moldova (art. 32, para. 1). The open development of human personality, justice and political pluralism represent supreme values, that shall be guaranteed (the Constitution of the Republic of Moldova, article 1).

510. Also the Constitution stipulates in article 23 (2) that "the State ensures the right of every person to know his/her rights and duties. For that purpose the State shall publish all its laws and regulations and make them accessible to everybody".

511. In order to prevent one's suffering because of his/her opinions, article 140[1] of the Criminal Code establishes punishments for officials who persecute citizens for presenting their proposals, requests, complaints or for criticism included in them or for criticism made in other form.

512. The Criminal Code also includes penalties for the impediment of conducting pre-electoral propaganda (art. 133), impediment of exercising the right to vote (art. 133[1]), infringement on the legislation regarding petitions (art. 140[1]), violation of the right to freedom of assembly (art. 140[2]), impediment of exercising religious rituals (art. 144).

513. The penalties for infringement on the free exercise by citizens of their right to opinion, listed above, are also foreseen in the draft of a new Criminal Code of the Republic of Moldova, passed by the Parliament in the second reading.

514. Having access to any information of public interest is a right of every person, that may not be restricted. Public authorities shall ensure that citizens are correctly informed both on public affairs and matters of personal interest (the Constitution of the Republic of Moldova, article 34 (1, 2)).

515. The State guarantees every citizen the right of free access to truthful information regarding the state of the environment, living and working conditions, and the quality of food products and household appliances. Non-disclosure or falsification of information regarding factors detrimental to human health constitute offences punishable by law (the Constitution of the Republic of Moldova, article 37 (2, 3)).

516. Creation and the public media shall not be submitted to censorship (the Constitution of the Republic of Moldova, articles 33 (1) and 34 (5)).

517. According to the Law on culture, the Law on the use of languages spoken on the territory of the Republic of Moldova, every person has the right to express freely and in the language he she possess - beliefs, opinions, including expressing them through creative activities.

518. The freedom of opinion and expression allows citizens of the Republic of Moldova, including aliens and stateless persons (article 19 (1) of the Constitution, the Law on legal statute of aliens and stateless persons in the Republic of Moldova, article 14) to take part at the social and cultural life, by freely expressing their thoughts, opinions and beliefs etc.

519. According to the Law on the rights of a child, the child has the right to freedom of thought, opinion, and confession and these rights cannot be breached upon in any way. The State guarantees to the child, capable to formulate his opinions, the right to freely express these opinions over any problem that concerns him. The child's freedom of thought, opinion, confession cannot be breached upon in any way. The child is given the possibility to be examined, during legal or administrative proceedings that concern him, either directly, or through a representative or an adequate authority, in compliance with law (art. 8).

520. The Supreme Law of the Republic of Moldova guarantees also the right of opinion and expression in the indirect way by articles 4 and 8 of the Constitution. According to these articles, constitutional provisions for human rights and freedoms shall be understood and implemented in accordance with the Universal Declaration on Human Rights, with covenants and with other treaties endorsed by the Republic of Moldova. Wherever disagreements appear between covenants and treaties regarding human rights signed by the Republic of Moldova and her own national laws, priority shall be given to international regulations. The Republic of Moldova pledges to respect the Charter of the United Nations and the treaties to which it is a party.

521. When constitutional and international provisions regarding the right to opinion and information are constrained by certain national laws or regulations, they can be contested in the Constitutional Court (the Constitution of the Republic of Moldova, article 135 (a)). This was the case of the Law of Parliament No.83-XIV regarding amendments of the Law on Government, which stipulated that not all of the Government's decisions are published in Monitorul Oficial of the Republic of Moldova. After enforcing constitutional control of the provision mentioned above, the Constitutional Court decided that the provision is unconstitutional and citizens were restored in their legitimate rights.

522. The Law of the Republic of Moldova on access to information from 11 May 2000 establishes the mechanism of implementation by any person of the right to freely look for, receive and spread information and ideas of any kind and of any form. According to the above-mentioned Law, everyone has the right to request, obtain information and get acquainted with any activity of the authorities, State institutions, other organizations, with any documents which are in his possession, excepting cases foreseen by law. Central and local public authorities must create informational sources and ensure citizens and legal entities with free access to them. Any refusal to disclose requested information may be attacked in court.

523. Exercise of the rights stipulated in this Law does not imply discrimination as to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, personal property or social origin (art. 4 (3)).

524. The right to information is also regulated by the Law on Parliament's Lawyers; the Law on press, the Law on Audio-Visual; the Law on State secret; the Law on commercial secret; the Law on petitioning; the Law on statistics; etc.

525. According to the Programme of the Government of the Republic of Moldova regarding implementation of the legislation in the field of protection of the right of access to information, a number of proposals, as to modifications and completion to the legal framework in force, are made. It is proposed to introduce a new article in the Criminal Code - article 140^4 "Violation of the legislation regarding the access to information". According to this article, officials shall be held liable under criminal law for deliberately infringing on the process of ensuring and implementing the right of access to information.

526. Refusal by an official to supply information shall also be punished in the administrative way (completion of the Code on administrative offences with article 199^7).

527. Article 10 of the Law on State secret is completed with paragraph 4. According to this paragraph officials competent in attributing information to the State secret, shall be punished for groundlessly attributing information to the information that constitutes State secret.

528. By completing paragraph 1 of article 5 of the Law on commercial secret, it is prohibited to groundlessly attribute information to commercial secret, and the business agent is punished for such an attribution (art. 6, para. 4).

529. The completion of the Law on registers obliges the registering clerk to supply information from the register in the volume required by any person, from the moment when this information is available for supply, but in term not exceeding three working days from the date when the request was submitted.

530. The Law on petitioning was completed (art. 8, para. 3) with provisions that establish the terms in which requests regarding official information should be examined.

531. Also a number of completions and modifications to other laws that regulate the citizens' access to information are proposed (the Law on local public administration, the Law on public notary, the Law on statistics).

532. Both Constitution and laws mentioned in relation to paragraph 2 of the present article contain special duties and restrictions.

533. Thus, in accordance with the Supreme Law, the freedom of expression may not harm the honour, dignity or rights of other people to have and express their own opinions or judgements. The law shall forbid and prosecute all actions aimed at denying and slandering the State or the people, advocacy to war, aggression, ethnic, racial or religious hatred, the incitement to discrimination, territorial separatism, public violence (art. 32).

534. "The right of access to information may not prejudice either the measures taken to protect the citizens or the national security. The State and private media are obliged to ensure that correct information reaches public opinion" (the Constitution, articles 34 (3) and (4)).

535. According to article 54 of the Constitution, the exercise of certain rights or freedoms may be restricted only under the law and only as required in cases like: the defence of national security, of public order, health or morals, of citizens rights and freedoms, the carrying of the investigations in criminal cases, preventing the consequences of a natural calamity or of a technological disaster.

536. Article 10 of the Law on judicial system stipulates that, court sessions in the Republic of Moldova are public, cases may be heard behind closed doors only as stipulated by law. At the same time, interference in administering justice is prohibited. Article 13 of the law foresees administrative or criminal liability for exercising pressure over the judges, including: meetings, demonstrations, other actions held by citizens at a distance shorter than 25 meters from the building where justice is administered.

537. The magistrate is prohibited to discuss in his studies, articles and speeches the issues connected with internal policy, in order to exercise his activity strictly in compliance with law (the Law on the statute of the judge, article 8 (2)).

538. Aliens and stateless persons are forbidden to choose and to be chosen in legislative, executive and in other eligible bodies, to participate in the universal suffrage, to be members of parties and other social and political organizations, according to article 19 of the Law regarding legal statute of aliens and stateless persons.

539. The Law on preventive arrest (art. 16) allows arrested persons to receive information regarding their rights and duties, regarding the regime of their arrest, disciplinary requirements, other specific information, to correspond, to send complaints, but it is prohibited to send complaints, requests and letters if their content discloses information that can impede the establishment of truth in criminal trials. This kind of correspondence is sent to the person or body that investigates the case at that moment (art. 18 (5)).

540. The Law on the right of a child prohibits involvement of children in political activity and their association with political parties (art. 13 (3)).

541. The Law on press (art. 4) repeats constitutional restrictions over information and materials that contain disputes and slandering towards the State or the people, incitement to war, aggression, public violence etc.

542. The Law on State secret clearly defines and limits the documents, information, data and activities that are part of this category and also regulates the access to them. Article 2 of the Law stipulates that State secret constitutes information protected by State in the field of its military, economic, technical, scientific activity, also in the field of foreign policy, recognition policy, contra-information and operative investigation policy, whose disclosure may jeopardize the security of the State.

543. According to the Law on commercial secret, commercial secret includes information that does not constitute the State secret, in the sphere of production, technology, administration, financial activity and other activity of an economic entity, the disclosure of which may cause damages to his interest.

544. More ample restrictions are established by the Law regarding legal regime of the extraordinary situation and special forms of governing in the Republic of Moldova. According to this Law, in conditions of an extraordinary situation, bodies of the State power and State administration, depending on concrete circumstances, "may limit or forbid the use of multiplication devices, radio and television broadcast receivers, video and audio recording devices, may confiscate technical means of sound amplification, or establish control over the media" (art. 14).

545. The legislation of the Republic of Moldova foresees civil, administrative and criminal liability for infringing on the restrictions imposed by law regarding the right to opinion, expression, and spread of information.

546. The Code on administrative offences establishes the fine for citizens and officials for producing, importing, distributing and publishing pornographic materials, publications, paintings and other pornographic materials (art. 171^{1}), for producing, importing, distributing, demonstrating works that propagate the cult of violence and cruelty (art. 171^{2}).

547. Article 7 of the Civil Code stipulates that every individual and legal entity is entitled to request through court annulment of information that prejudices his/her honour and dignity.

548. If mass media made public information regarding punishment, arrest or trial under criminal law of the individuals and they were subsequently rehabilitated, it is the obligation of the media to publish the rulings regarding rehabilitation (the Law on the method of paying the prejudice caused by illicit actions of the authorities carrying out penal pursuit and preliminary investigation, of the public prosecutor and of the courts (art. 7, para.2)). The Criminal Code establishes a variety of penalties for incitement to overthrow or change the State system by using violence or to infringe on the territorial integrity of the Republic of Moldova by violence (art. 67), incitement to commit certain crimes against State security (art. 67^{1}), the propaganda of war (art. 68), infringement on ethnic and racial equality (art. 71), disclosure of State secret (art. 72).

ARTICLE 20

549. Article 54 of the Constitution of the Republic of Moldova foresees restriction of the exercise of certain rights or freedoms: "The exercise of certain rights or freedoms may be restricted only under the law and only as required in cases like: the defence of national security, of public order, health or morals, of citizens rights and freedoms, the carrying of the investigations in criminal cases, preventing the consequences of a natural disaster or of a technological disaster. The restrictions enforced must be proportional to the situation that caused them, and may not affect the existence of that right or liberty."

550. Thus, article 32, paragraph 2 of the Constitution stipulates that freedom of expression may not harm the honour, dignity or the rights of other people to have and express their own opinions or judgements. According to article 32, paragraph 3: the law shall forbid and prosecute all actions aimed at disputing and slandering the state or the people. Likewise shall be forbidden and prosecuted the incitements to sedition, war, aggression, ethnic, racial or religious hatred, the incitement to discrimination, territorial separatism, public violence, or other actions threatening constitutional order.

551. As it is stipulated in article 68 of the Criminal Code, war propaganda of any kind - shall be punished by imprisonment of not less than three years and not exceeding eight years.

552. Also, public appeals to treason of the homeland, to commit a terrorist act or a diversion are qualified as crimes that shall be punished by imprisonment not exceeding three years or with a fine not exceeding 50 minimal salaries (art. 67/1 of the CC).

553. Deliberate actions directed at the incitement of enmity, ethnic or racial disunity, humiliation of national honour and dignity, as well as direct or indirect limitation of rights or establishment of direct or indirect advantages of citizens depending on their racial or national origin - is punished by imprisonment not exceeding three years or with a fine not exceeding 50 minimal salaries (art. 71, para.1 of the CC).

554. Same actions, committed by using violence, fraud or threats and also if these actions were committed by an official - shall be punished by imprisonment not exceeding five years or with a fine not exceeding 80 minimal salaries (art. 71, para. 2 of the CC).

555. Article 223/1 of the CC stipulates that producing, broadcasting, showing or storage with the purpose of broadcasting or showing certain cinema films, video films, or other works that propagate the cult of violence and cruelty, committed within one year after imposing administrative sanction for such actions - shall be punished by imprisonment not exceeding two years, or with correctional labour of the same length, or by a fine not exceeding 30 minimal salaries with confiscation of works and means used for their production and demonstration.

556. Engagement of a minor in military actions and war propaganda among minors (art. 223/2 of the CC) are included in the same category of offences and, - shall be punished by imprisonment of not less than two years and not exceeding five years or by a correctional labour not exceeding two years, or by a fine not exceeding 50 minimal salaries.

557. The organization or control of a group, the activities of which, conducted under the guise of the teaching of religious precepts and the practice of religious rites, involve the inflicting of harm to the health of citizens or other forms of infringement upon the person or rights of citizens, or the encouragement of citizens to refuse to engage in public activities or to perform other civic duties - is to be punished by imprisonment for a period up to five years, and with without confiscation of the person's property (art. 143, para. 1 of the CC).

558. The hindering of the practice of religious rites, insofar as they do not violate public order and do not involve infringement of the rights of citizens, is included in the same category of crimes and, - is to be punished with correctional labour not exceeding six months or with a public reprimand (art. 144 of the CC).

ARTICLE 21

559. The freedom of assembly, according to the Constitution of the Republic of Moldova (art. 40) shall not be restricted: "All meetings, demonstrations, rallies, processions or any other assemblies are free, and they may be organized and take place only peacefully and without the use of weapons." The Law of the Republic of Moldova regarding organization and unfolding of the assemblies No. 560 from 21 July 1995 regulates the way the freedom of assemblies is exercised, and the organization and unfolding, in conformity with the Constitution, of the meetings, demonstrations, rallies, processions or any other assemblies.

560. Assembly, according to law, means: meeting, demonstration, rally, procession, march, picket, strike, that are carried out in public places, outside the economic units or place of work.

561. The following categories of subjects are entitled to organize assemblies: the citizens of the Republic of Moldova with the capacity to exercise their rights who reached 18 years of age; parties and other social and political organizations, economic units, trade unions, churches and other religious organizations, public associations, registered according to the law (article 4 of the Law).

562. As article 5 of the Law states, assemblies may take place at the city halls of towns (municipalities), villages (commune) after having being declared by the organizers.

563. Assemblies shall take place peacefully and without use of weapons, in order to ensure protection of the participants and of the environment, without impeding normal use of public roads, traffic, functioning of the economic units, without degenerating in violent actions that would endanger public order, bodily integrity and life of persons and their goods (article 6 of the Law).

564. Assemblies may take place in the markets, streets, parks, squares and other public places from municipalities, towns/cities, communes, villages and other public places (art. 8, para.1).

565. It is forbidden to carry out assemblies in the premises of public authorities, local public administration authorities, of the public prosecutor office, courts of law, economic units with a special regime of labour security or with armed guards (art. 8, para.2).

566. The Law forbids the carrying out of the assemblies at a distance less than 50 metres from the premises of the Parliament, residence of the President of the Republic of Moldova, premises of the Government, of the Constitutional Court, the Supreme Court of Justice. Also the Law forbids the carrying out of assemblies at a distance less than 25 metres from the premises of specialized central public administration agencies, local public administration authorities, of law

courts, public prosecution office, police, penitentiaries and institutions of social rehabilitation, economic units with installations, equipment or machines with a high degree of danger during their exploitation, and also diplomatic institutions.

567. The Law stipulates that aliens and stateless persons who do not reside on the territory of the republic cannot take an active part at the assemblies. Interdiction for aliens and stateless persons to take an active part at the assemblies is practically impossible to implement. At present there is no law or other regulations, that would oblige the participants of an assembly to carry with them identity documents.

568. The Law mentions that decision making factors from the city hall are under the obligation to create necessary conditions for organization and unfolding of legitimate assemblies, to ensure the security of the organizer and participants of the assemblies, and also protection of the rights and freedoms of other persons, security of the State, public safety and public order, bodily and moral integrity of people.

569. According to article 54 of the Constitution the exercise of certain rights or freedoms may be restricted only under the law and only as required in cases like: the protection of national security, public order, health or morals, of citizens rights and freedoms, the carrying of the investigations in criminal cases, preventing the consequences of a natural calamity or of a technological disaster.

570. The Law of the Republic of Moldova from 1 October 1990 regarding legal regime of extraordinary situations and special forms of governing in the Republic of Moldova establishes political, legal, economic, social, administrative, organizational and other conditions for decreeing the extraordinary situation on the territory of the country. In conditions of extraordinary situation the bodies of the State power and of the State administration, depending on concrete circumstances, may enforce the following measures (art. 3): forbid meetings, rallies, street processions, demonstrations; forbid strikes; check identity documents in places where meetings are taking place, and in cases of necessity, when there is information that some citizens carry arms, to perform control of the persons, objects and vehicles.

571. Article 7 of the Law on organization and unfolding of assemblies regulates cases when assemblies are ceased. "Assemblies are ceased when the following deeds or actions are established:

(a) disputing and slandering the state or people;

(b) incitement to war of aggression, to ethnic, racial or religious hatred;

(c) incitement to discrimination, territorial separatism, public violence;

(d) violation of the constitutional regime."

The Criminal Code in article 140/3, incriminates the violation of the right to freedom of assemblies. "Illegal impediment of carrying out meeting, demonstration, rally, procession or any other assembly or illegal impediment to participation of citizens, or their compulsion to take part at the assembly, - shall be punished with a fine of not less than 50 and not exceeding 75 minimal wages.

572. Same actions, committed either by an official, or by a group of persons, or committed by using violence not inflicting on life and health, or accompanied by deterioration or destruction of the property - shall be punished either by imprisonment not exceeding two years or with correctional labour of one to two years, or by a fine of not less than 70 and not exceeding 100 minimal wages, or by dismissal from the occupied position.

573. Actions foreseen by paragraphs 1 and 2 of the present article, if committed either by use of a weapon or other objects that served as a weapon or that were specially adjusted to cause bodily harm, or accompanied by violence inflicting on life and health, or that caused serious damages or other serious consequences - shall be punished by imprisonment of not less than three years and not exceeding eight years.

574. The Criminal Code also incriminates organization and conduct of illegal strikes, impediment of the activity carried out at the enterprise, institution, organization in conditions of extraordinary situation - shall be punished either by imprisonment of not exceeding three years or by correctional labour not exceeding two years, or by a fine not exceeding 50 minimal salaries (art. 207/1, para.1 CC).

575. Article 214/1 incriminates the violation of the procedure of organization or unfolding of meetings, rallies, processions and street demonstrations "Violation of the procedure of organization or unfolding of meetings, rallies, processions and street demonstrations committed by the organizer of the meeting, rally, procession and street demonstration, after having been imposed administrative sanctions for the same actions - shall be punished either by a fine not exceeding 30 minimal salaries, or by correctional labour not exceeding 1 year, or by imprisonment not exceeding 6 months".

ARTICLE 22

576. One of the forms of exercising the right to association is the right to form and join trade unions. The Constitution of the Republic of Moldova regulates in article 42 the right of establishing and joining trade unions. Any employee has the right to establish and join a trade union in order to defend his/her interests.

577. Trade unions are founded and conduct their activities in accordance with their statutes under the law. They contribute to the protection of the employees' professional, economic and social interests.

578. The Law on trade unions was passed on 7 July 2000, but it is not yet published in Monitorul Oficial. Until this Law was passed, another Law on trade unions, passed by the Parliament in 1990, was in force.

579. This new Law was passed on the basis of the Constitution of the Republic of Moldova, the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and also International Conventions of the International Labour Organization signed by Moldova.

580. According to the provisions of the new Law, the right to form and join trade unions is the right of every citizen of the Republic of Moldova and also of aliens and stateless persons who legally stay on the territory of the country. Trade unions are established by free initiative of three persons and are aimed at protecting the employees' professional, economic and social interests.

581. Primary organizations of trade unions may be organized in federations or confederations and also join trade union organizations from abroad.

582. Trade unions are entitled to solve individual disputes and labour collective conflicts; to organize and unfold assemblies; to protect social interests of the workers; to protect the right to work; to supervise the implementation of the labour collective agreement; to take part at the collective negotiations.

583. Trade union organizations may also be established within armed forces and bodies of internal affairs in conformity with the particularities of the legislation in this field.

584. The final and transitory provisions of the Law on trade unions stipulate that the statutes of trade unions that acted before the present law came into force, should not undergo repeated registration.

585. Twenty-five trade union organizations were registered in Moldova until 27 July 2000 and they formed the General Federation of Trade Unions from the Republic of Moldova.

586. Unlike other countries, where trade unions constitute the most active part of the civil society, in the Republic of Moldova they are in a state of lethargy. Trade union movement in Moldova is still strongly influenced by the State structures, and does not enjoy mass adherence and support of the population or their trust.

587. Another aspect of exercising the rights stipulated in article 22 of the International Covenant on Civil and Political Rights is the right of participating at the establishment of a political party.

588. The Constitution of the Republic of Moldova stipulates in article 41 the freedom of political parties and other social and political organizations:

1. All citizens are free to associate in parties and other social and political organizations. These organizations contribute to the definition and expression of public political will, and under the rule of law take part in the electing process.

2. All parties and other social political organizations are equal before the law.

3. The State shall ensure the protection of the rights and legitimate interests of parties and other social/political organizations.

4. Parties and social/political organizations are declared unconstitutional if by their aims or activities they are engaged in fighting against political pluralism, the principles of the rule of law, the sovereignty and independence or territorial integrity of the Republic of Moldova.

5. Secret associations are forbidden.

6. The activity of parties consisting of foreign nationals is forbidden.

7. The organic law shall establish those public offices whose holders may not join political parties.

589. The conditions and principles of the establishment, functioning and dissolving of the parties and other social and political organizations are established in the Law of the Republic of Moldova No. 718 from 17 September 1991 concerning parties and other social and political organizations. According to this Law parties and other social and political organizations are free-will associations of citizens constituted on the basis of common conceptions, ideals and purposes, that contribute to the implementation of the political will of a certain part of the population by legally grasping state power and participating at its exercise.

590. Other social and political organizations comprise - fronts, leagues, political mass movements etc. The right to join parties and other social and political organizations belongs to the citizens of the Republic of Moldova. Only a capable citizen of the Republic of Moldova who reached 18 can be a member of a party and other social and political organization. One citizen cannot be simultaneously a part of two or more parties and other social and political organizations. Parties and other social and political organizations have the right, on principles of exercising their will, to associate in political blocs, unions, federations, associations (article 2 of the Law).

591. The following actions are prohibited: creation and activity of paramilitary parties and other social and political organizations, of parties and other social and political organizations that are engaged in fighting against political pluralism and against the principles of the rule of law and have as a goal the overthrow or violent change of the State system through other anti-constitutional methods, that propagate war, incite discord and social, inter-ethnic and religious enmity, authoritative and totalitarian methods of leadership, infringe on the natural human rights, carry out other activities that offend the constitutional system of the Republic of Moldova and are not in compliance with generally accepted norms of international law (article 4, paragraph 4 of the Law).

592. It is not allowed to create on the territory of the Republic of Moldova parties and other social and political organizations, their subdivisions and organizations that belong to foreign States (article 4, paragraph 3 of the Law).

593. The statute of the party and other social and political organization is registered when: (a) it has at least 5000 members domiciled in at least half of the administrative territorial units of second level, but not less than 600 in every administrative territorial unit mentioned; (b) it has a programme and chosen leadership bodies.

594. The request of registering the statute is submitted to the Ministry of Justice that, within a month, shall make a decision of registering the statute or refusing to register it. The Decision of the Ministry of Justice regarding refusal to register the statute can be attacked by the organization in the Supreme Court of Justice within 10 days (article 15 of the Law).

595. The following persons cannot be a part of the parties and other social and political organizations: military persons, internal affairs bodies officials, officials of State security, custom services, judges, public prosecutors, investigators, ombudsmen, State auditors and persons working in press and official radio and television offices (article 10 of the Law).

596. Until 19 July 2000 30 parties were registered in the Republic of Moldova. Political parties in Moldova are divided, depending on their political doctrine, into "left", "centre" and "right" parties.

597. Another form of exercising the right of association is the right to form public associations and foundations. The Law on public associations No. 837 from 17 May 1996 regulates social relations connected with the establishment, registration, functioning and cessation of the activity of public associations.

598. A public association is a voluntary, independent organization, self-administering, formed by a freely expressed will of the citizens associated on the basis of common professional and or other interests, in order to implement together civil, economic, social and cultural rights without the purpose of obtaining profit. The following are considered public associations: public movements, pacifist organizations, organizations with the purpose of protecting human rights, organizations of women, veterans, invalids, children, youth organizations, scientific, technical, ecological, educative and cultural, sport, other voluntary association, creation unions, national and cultural communities, public institutions, other associations of citizens (article 1 of the Law).

599. Public associations are established and conduct their activity with the purpose of implementing and protecting civil, economic, social, cultural and other legitimate rights and freedoms; developing social activism and spirit of initiative on behalf of the citizens, of satisfying their professional or amateur interests in the field of scientific, technical, artistic creations etc.

600. It is not allowed to form and conduct the activity of public associations that have as their purpose or that choose as their method of action - the change of the constitutional regime by using violence, undermining the territorial integrity of Moldova, propaganda of war, violence and cruelty, incitement of social, racial, ethnic or religious hatred, other actions punishable by law.

601. It is also prohibited to form paramilitary public associations or armed organizations and to establish and conduct the activity of public associations that infringes on the legitimate rights and interests of the citizens, people's health and morals (article 4 of the Law).

602. Public associations shall be formed in one of the following organizational and legal forms: public movement, public organization, public institution.

603. The following public associations are formed and conduct their activity in the Republic of Moldova: republican, local and international (article 12 of the Law).

604. Public associations are formed by the initiative of their founders - individuals who reached 18 and legal entities - public associations. They are formed by the initiative of at least 3 citizens and or of one or more legal entities - public associations.

605. Public authorities can neither be founders nor members of public associations. Aliens and stateless persons domiciled in the Republic of Moldova can found public associations on the same basis as the citizens of Moldova, if the legislation regarding different types of public associations does not stipulate otherwise (article 14 of the Law).

606. The following categories of persons may be members of public associations: citizens of the Republic of Moldova, aliens and stateless persons, if legislation regarding different types of public associations does not stipulate otherwise. Members of public associations may be citizens who reached the age of 18, members of public associations of youth - citizens having reached the age of 14, and members of public associations of children - citizens having reached the age of 10.

607. Until 19 July 2000 the Ministry of Justice has registered 1460 NGO. But unfortunately the majority of them are formal and only one of every 10 actually functions. One of the most influent NGO are ethnic and cultural communities.

608. The procedure of establishing foundations is regulated by the Law of the Republic of Moldova on foundations No. 581 from 30 July 1999.

609. Foundation is a not-for-profit organization, having no members, founded according to the act of constitution by one or more individuals and/or legal entities who may be citizens of the Republic of Moldova, stateless persons or aliens with the full capacity to exercise their rights (article 1 of the Law). Foundations may also be established on the basis of will. Central and local public authorities and also budgetary institutions cannot be the founders of a foundation (article 6 of the Law).

610. The registration of a foundation is denied when its goals are illicit or if it may prejudice, through its activity, the principles of the rule of law, sovereignty, independence, territorial integrity of the Republic of Moldova, the legal order or moral principles.

611. Until 19 July 2000, 10 foundations were registered by the Ministry of Justice.

612. The exercise of the right of association may be restricted on the basis of article 54 of the Constitution and only under the law, as required in cases like: the protection of national security, public order, health or morals, rights and freedoms of citizens, the pursuit of the criminal investigation, prevention of the consequences of a natural or technological disaster.

613. Also, the Law of the Republic of Moldova No. 290 from 1 October 1990 on legal regime of the extraordinary situation and on special forms of governing stipulates in article 3 that in case of an extraordinary situation the authorities of the State power and of the State administration, depending on concrete circumstances, may suspend the activity of political parties, public organizations, mass movements, associations of public initiative that impede the alleviation of the situation.

ARTICLE 23

614. Paragraph 1 of article 23 of the International Covenant on Civil and Political Rights is identically formulated in article 48, paragraph 1 of the Constitution of Moldova.

615. According to article 5 of the Marriage and Family Code, the family in the Republic of Moldova is under the protection of the State.

616. The State demonstrates its concern for the family by creating and developing a large network of social services: maternity hospitals, nurseries and kindergartens; by improving the sphere of social services, by paying benefits upon the birth of a child, benefits and allocations to large families with small revenues, as well as other means of assistance provided to the families.

617. Maternity in the Republic of Moldova is protected and encouraged by the State. Protection of interests of mother and child is provided by special measures in the sphere of labour protection, women's health, by creating conditions which make it possible for women to combine work and maternity; by legal protections, by material and moral support for the mother and child, (including maternity leave and paid vacation) granting pregnancy and confinement leave and leave for nursing the child with maintenance of the position and non-conditional benefits of income.

618. The right to marry and found a family is guaranteed. The law and particularly the Code of Family and Marriage shall establish under which conditions a marriage may be concluded, dissolved or annulled.

619. Marriage will be contracted in the State Registrar's Offices. Registration of a marriage is made both in the interests of the State and society and for the purpose of protecting personal and property rights and interests of spouses and children. Only a marriage contracted before the State Registrar's Office creates rights and duties between the spouses.

620. Registration of marriage shall be made at the expiration of at least one month after the persons willing to contract a marriage have filed a petition for marriage at a State Registrar's Office.

621. The parties must meet the minimum age requirement and mutually consent to marriage in order to enter into a marriage.

622. According to article 16 of the Code of Marriage and Family, minimal age for marriage is 18 for men and 16 for women. In exceptional cases, this age may be reduced, but not by more than two years. When law allows to enter the marriage before 18, the citizen under 18 obtains the full capacity of exercising his rights and obligations from the moment when marriage is concluded (article 11, paragraph 2 of the Civil Code).

623. Entering into a marriage is not allowed:

1. If one of the persons is already married;

2. Between relatives of straight ascending and descending genealogical lines, between sisters and brothers, including those with one father and different mothers or one mother and different fathers, or between adopted children and their adoptive parents;

3. Between persons, when one or both have been declared by the court to be incapable because of a mental alienation or mental debility;

4. During the period of guardianship, between the guardian and the minor person under his or her guardianship (articles 13, 14, 15, 17 of the Marriage and Family Code).

624. The marriage ceases, when one of the spouses dies or his or her death is declared by legal means. During the lifetime of the spouses the marriage may be dissolved by divorce at the request of one or both spouses. A husband is not entitled to file a divorce without his wife's consent during his wife's pregnancy and until one year after the child's birth (arts. 33, 34).

625. A marriage is dissolved by courts and in cases of consent of both spouses or at the request of one spouse - at the State Registrar's Offices.

626. The cases of dissolution of marriage are examined by the local or city court on the basis of general provisions of civil procedure. The court, after establishing real causes that determined the person to file the dissolution action, must take measures to try to reconcile the spouses and improve the family situation. The court may postpone examination of a dissolution and grant spouses time for reconciliation of up to six months. The marriage is dissolved if the court establishes that the spouses cannot live together and maintenance of the family is impossible.

627. Upon a voluntary declaration and consent of both spouses, provided they have no minor children, and there are no disputes regarding the division of property, the marriage can be dissolved by the State Registrar's Office in the jurisdiction of the domicile of both spouses or one of them. If the spouses cannot agree regarding the support for a spouse who is incapable of working and needs assistance or regarding the division of community property, both spouses or one of them are entitled to bring an action to court for dissolution of marriage.

628. A marriage is dissolved at the Registrar's Office if one spouse:

- Is pronounced, in a way established by the law, missing-in-action;
- Is pronounced, in a way established by the law, incapable as a result of mental illness;
- Is convicted to at least three years of imprisonment, for committing a crime.

629. If the spouses cannot agree regarding child custody, division of their community property, or support for a spouse who is incapable of working and needs assistance, the dissolution of marriage is made by the court.

630. If a spouse who was legally pronounced dead, appears and the respective court's decision is annulled, the marriage is considered re-established, provided the other spouse has not contracted another marriage. If a spouse was legally pronounced missing-in-action, and for this reason the marriage was annulled, in the case of his or her appearance and at the common request of the spouses the court's declaration may be annulled and the State Registrar's Office may re-establish the marriage. However, the marriage may not be re-established if the spouse of the person declared missing-in-action contracted another marriage (arts. 35, 36, 38, 42).

631. The judgment of nullity of marriage is made by the court, if the conditions of entering into marriage were infringed upon (consent, minimal age requirement, existence of certain conditions resulting in an illegal marriage), and also if the marriage was contracted with no intention to create a family (fictive marriage) - articles 43, 44, 45, 46.

632. The legal regulation of the marriage and family relations in the Republic of Moldova is implemented only by the State.

633. Only a marriage which was concluded in the State Registrar's Offices shall be considered valid. Religious celebration of the marriage, as well as other religious ceremonies, have no legal effect.

634. The law protects the rights which result from marriage and family relations unless these rights are exercised in a means contrary to their purpose. Exercise by members of the family of their rights must not infringe upon interests of society, State, or other citizens.

635. Protection of rights which result from marriage and family relations is made by the courts, by guardianship authorities, and by State Registrar's Offices, and also by working groups, by trade unions and other public organizations, and in a means established by the legislation (articles 6, 6/1, 6/2 of the Marriage and Family Code).

636. Equality of citizens in family relations is foreseen in article 4 of the Code. It stipulates: "All citizens have equal rights in family relations. Direct or indirect limitation of rights is not allowed, no direct or indirect advantage in conclusion of a marriage or in family relations may be established with respect to heritage, social and financial position, race and nationality, sex education, language, attitude to religion, occupation, residence or other circumstances."

637. Rights and duties of spouses become valid at the moment of registration of marriage at the State Registrar's Offices. Spouses have equal rights and duties. Spouses solve matters concerning education of children and other family issues together. Each spouse is free to choose his or her occupation, profession, and domicile (arts. 18, 20).

638. Spouses must help each other materially. Being refused to help, a spouse who is incapable of working and needs material help, including a wife when pregnant and until three years after the child's birth, have a right to obtain support (alimony pension) by legal means from the other spouse, if the latter is capable to provide it.

639. A spouse who is incapable of working and needs help maintains his or her right to receive support from the other spouse after the dissolution of their marriage, if he or she became incapable of working before the dissolution of marriage or in the course of one year after the dissolution of marriage. If the spouses have been in a long-term marriage, the court has the right to oblige a spouse to pay alimony pension to the divorced spouse if the latter has reached the age of retirement no later than five years after the dissolution of marriage. The wife maintains her right to receive support from her husband during her pregnancy and until three years after the child's birth if she became pregnant before the dissolution of marriage.

640. The amount of spouse support is established in a fixed sum of money which is paid monthly, taking into account the family and financial situation of both spouses. The court determines the support from the moment the action is brought. The court may exempt a spouse from the obligation to support the other spouse or limit this obligation to a certain period of time, if:

1. The marriage of the spouses was not a long-term one;

2. The spouse who is requesting material help misbehaves;

3. The spouse's incapacity to work results from alcohol or drug abuse or is a consequence of committing a crime (arts. 27, 28, 29, 31).

641. Rights and duties of parents and children are based on the descent of children, attested in a way provided for by the law.

642. Parents are entitled and obliged to educate their children, to care for their health, their physical, spiritual and moral development, for their education and readiness for socially useful work. Protection of the rights and interests of minor children is incumbent upon their parents, who are legal representatives of their children without any special empowerment.

643. Parental rights may not be exercised in contradiction with the children's interests.

644. If the parents (or one of them) do not exercise their duties of proper education or abuse their parental rights, the children have the right to appeal to the guardianship authorities for protection of their rights and interests.

645. Parents have equal rights and duties in what concerns their children also if their marriage has been dissolved.

646. All matters regarding children's education are solved on the basis of a mutual agreement of their parents. If parents did not come to agreement, guardianship authority solves the dispute with their participation.

647. The non-custodial parent must take part in the education of his or her minor children and has the right to communicate with them. The custodial parent must not impede the other parent to communicate with the children and to take part in their education. The guardianship authorities may deprive, for a certain term, the non-custodial parent of his right to communicate with the child, if it impedes normal education of the child and has a detrimental influence on him.

648. The stepparents, if they have enough means, must support their minor stepchildren, as well as their major stepchildren who are incapable of work and need help, if they supported or raised these children and the latter have no parents or cannot get sufficient support from their parents, spouses or major children (arts. 48, 56, 57, 58, 60, 85).

649. According to article 71 of the Marriage and Family Code, the parents must support their minor children and their major children, if they are incapable to work and need help.

650. Support of minor children is pursued from the parents: for a single child - one quarter, for two children - one third, for three or more children - one half of the parents' earnings.

651. The parents who pay support of their minor children may be obliged to participate at supplementary expenses caused by certain extraordinary circumstances (serious disease, child's disability, etc.). The court shall establish the amount of participation in these expenses, taking into account the material situation of the parents.

652. The minors who at the moment of adoption are entitled to receive support or alimony, due to them because of losing the upholder, from the State or public organizations, maintain this right also in the event of their adoption (arts. 72, 73, 85, 113).

653. Title VI of the Marriage and Family Code foresees the application of marriage and family legislation of the Republic of Moldova to foreign citizens and stateless persons. In accordance with this title foreign citizens and stateless persons who live in Moldova on a permanent basis have the same rights and duties in marriage and family relations as the citizens of the Republic of Moldova. The law of the Republic Moldova may provide certain exceptions.

ARTICLE 24

654. Protection of the child by the State constitutes a primordial political, social and economic concern in the Republic of Moldova.

655. The State policy in the field of children's rights is aimed at ensuring the implementation of the main principles foreseen by the Convention on the Rights of the Child, without any discrimination as to race, colour, sex, language, religion, political or other opinion of the child, of the parents or of his/her legal representatives, of their national, ethnic or social origin, property, incapacity, birth, or other situation.

656. According to the constitutional stipulations (art. 16, para. 2) all citizens of the Republic of Moldova are equal before the law and public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, personal property or social origin. It is obvious that children also benefit from these stipulations of the Supreme Law, and moreover, these provisions are foreseen by the Law on the rights of the child, which stipulates that: "all children are equal in rights without any discrimination as to race, nationality, ethnic origin, sex, language, beliefs, personal property or social origin".

657. The State, through the Law on education, guarantees the right to education, without any discrimination as to nationality, sex, age, social origin or State, political or religious beliefs, penal antecedents.

658. The State, through the Law on the rights of the child No. 338-XIII from 15 December 1994, guarantees to every child the right to a standard of living adequate to his physical, intellectual, spiritual and social growth. At the same time, the State takes necessary measures in order to grant the support to the parents and to other persons responsible for the education and growth of the children.

659. The right of the child to education in the Republic of Moldova is regulated by the Law on the rights of the child and the Law on education. This right is materialized in three forms:

- The right of every child to a free education in primary schools, to continue his study in vocational schools, high schools, colleges, institutions of higher education, according to the legislation;

- The right of the children with physical disability to education in special schools;

- The right of orphans and children who do not benefit from the support of their parents to free education in all institutions of education.

660. According to article 12 of the Law on education No. 547-XIII from 21 July 1995, the educational system consists of levels and steps, and thus has the following structure:

I. Pre-school education

II. Primary education

III. Secondary education

1. General secondary education:

(a) Gymnasium education;

(b) High school education.

2. Vocational secondary education

IV. Higher education:

1. Short-term (colleges);

2. University.

661. Pre-primary educational system has as its purpose the creation of conditions necessary for natural development of the child within national culture, on the basis of the general-human values and national spirituality; building a free and creative personality by shaping the conscience of the child. The educational process is guided by the principle of treating the child in a differential and individual manner as the first step of national conscience; also of treating the child in a differential and individual manner within an inter- and intra-disciplinary framework. In this context, great importance is given to the stimulation, development and capitalization use of the psycho-physiological and intellectual native potential of every child.

662. Pre-school education, as the first step in the structure of the national system of education, is aimed at preparing children for learning activity, and the main objective is achieved, depending on the real situation, concrete necessities and possibilities. Pre-school education is implemented, as a rule, until the age of 3 within the family, and between 3 to 6 (7) years at the pre-school institutions.

663. The system of pre-school education has been constantly declining recently. At the beginning of the 1998-1999 school year, only 1.4 thousand pre-school institutions were functioning in Moldova, having 126 thousand children from the total of 293.4 thousand which constitutes 44.8 per cent. The activity of 152 kindergartens, with deteriorated premises, that were closed within the last 2-3 years for different reasons, is still suspended, and 196 more institutions were temporarily closed during the cold period of the year.

664. General education includes three steps: primary education (grades I-IV), secondary (gymnasium) education (grades V-IX) and high school education (grades X-XII).

665. Primary and secondary education are compulsory for children (first nine grades). Compulsory education ensures development of the intellectual aptitudes and abilities of the pupil, being considered as a decisive level in building the personality, in professional orientation and in preparation for secondary and professional school.

666. As for the problem of schooling of children aged 6 to 16, the situation is the following: until 10 December 1998, 4,377 children (0.58 per cent) were not attending school. In comparison with the situation as of 15 September 1998, the number of children not attending school decreased by 787. But the reality is alarming, because a large part of children who do not attend school are primary school pupils (1,080 - 24.7 per cent).

667. Among the reasons of non-schooling of children, the refusal of the parents, caused by a difficult material situation of many families, prevails. Because of this reason as of 10 December 1998, 3,117 children (71.21 per cent of the total non-attendance) do not attend school.

668. Children from families with a precarious material situation are forced to work in order to support themselves, and thus their attendance of school and possibilities of studying decline.

669. The lack of fuel, electric energy failures, insufficient nutrition, deterioration of school furniture, insufficient material possibilities block the process of building and developing the personality of the child.

670. Secondary vocational education is organized as daytime or evening education within the polyvalent and professional schools. The professional polyvalent school ensures a professional successive preparation within a large field - from worker to technician, and simultaneously ensures the secondary schools studies.

671. Higher education has as its purpose: building of a multilaterally developed and creative personality, preparation, improvement and a high re-qualification of specialists and scientific personnel in different fields. Higher education includes: colleges, institutions, universities and academies. Matriculation in higher education is performed through a competition: on the basis of High School Bachelor diploma and certificate of secondary education. The length of studies in colleges is of 2-3 years, in universities 4-6 years.

672. The Republic of Moldova has the following functioning institutions: 18 higher education institutions comprising about 48,000 students; 47 colleges attended by about 32,300 students. Almost 3,000 students study abroad.

673. Children with educational problems constitute a considerable part of the infantile population and includes: children with sensorial, locomotion deficiencies, children with deficiencies of speech, and also with mental deficiency etc.

674. These children need an additional assistance and thus they are placed in the system of the special education. Every child is unique and that is why he needs help for developing and adjusting to the life in society. All children are special and need their own participation and their parents' participation in overcoming difficulties that occur during their psycho-physical development and their social integration.

675. In the Republic of Moldova special education is a constitutive part of the system of education and has as its purpose education, instruction, social recovery and integration of the pre-school children and pupils who have psychological, physical, sensorial, speech, socially affective deficiencies and also deficiencies of behaviour and children with associate deficiencies.

676. Establishment of the diagnosis for children with physical and physical deficiencies is performed in the presence of the parents or guardians, by the medical-physical-pedagogical services, organized by the decision of the Government and subordinated to the Ministry of Education and Science.

677. Special education is organized within the instructive-educational institutions of the boarding school type, or institutions with a prolonged programme. Special education is carried out according to the plans of instruction, programmes of studies and didactic developed depending on the degree of the disability and aimed at compensation, correction of deficiencies, recovery and social integration.

678. Teaching of disciplines in special schools for children with physical and sensorial deficiencies is performed by didactic personnel who have general preparation and a specialization in the field of psychological recovery pedagogy.

679. At present, education and instruction of children with special necessities is performed within the framework of a number of ministries.

680. The Ministry of Labour, Social Protection and Family has, in its subordination, two boarding schools in Orhei and Hincești for children with mental deficiencies, and 291 and respectively 196 of them are under guardianship.

681. At present, within the system of the Ministry of Education and Science, there are 65 institutions of a boarding school type for orphan children; children who remained without the support of their parents, children with a diversity of anomalies in their physical and psychical development.

682. Of all children educated in orphanages and children's homes, 298 are orphans, 875 are children whose parents have different psychical diseases and children who were taken from their parents according to a court ruling.

683. The content of teaching, plans of instruction, programmes, didactic materials shall be based on the individual and differential attitude and shall mainly correspond to the primary and secondary deficiencies, to the specific character of the cognitive and practical activities performed by the children with anomalies.

684. Thirty-seven boarding schools with a special regime for children with physical or psychical disabilities were functioning in 1997, interning 5,336 persons. The budget allotted 16.6 mil. lei for the support of these institutions.

685. The number of children interned in these institutions has increased from 5,139 in 1996 to 5,336 in 1997. As a result of this situation, the expenses for the support of one child have reduced from 3,631 lei in 1996 to 3,531 in 1997, even though the volume of allocations has increased from 18.6 mil. lei to 18.8 mil. in 1997.

686. The State has financially supported, by allotting 0.7 mil. lei from the budget, the activity of a sanatorium boarding school, interning 206 children with diseases of the cardiovascular system.

687. The economic crisis has created difficulties in the organization of the educational and recovery process of children placed in institutions of a boarding house type. The children's homes and boarding schools are not financed in conformity with all established provisions, since payments are performed with delays and not in full quantity. In this situation the support of the children with particular needs, creation of proper conditions for protection of their life and health is even more complicated.

688. Complementary (extra-school) education. Education, at all levels and steps, shall be supplemented by extra-school activities, aimed at developing individual aptitudes and abilities, at meeting a variety of individual's interests and options. Extra-school activities may have a scientific, cultural-artistic, sport-artistic, technically-applicable orientation.

689. Complementary education is organized, individually and in groups, within a number of extra-school institutions (such as: clubs, palaces for pre-school children and pupils, school camps, sport grounds, tourist and leisure activities, etc.), and also within the institutions from within the educational network.

690. All children are ensured with equal possibilities and conditions for learning cultural values, and with access to different State and public institutions that contribute to the development of their creative abilities.

691. The State supports the publication of newspapers, magazines and books for children, production of films, radio and television shows for children.

692. The libraries for children have been recently facing difficulties regarding the supplementation with new literature, their maintenance and financial support.

693. At present 84 extra-school institutions are working in the Republic of Moldova (excepting these kind of institutions from the east part of the country) comprising about 50 thousand participants (data as of 1 January 1998), this number constituting 7.8 per cent of the total number of pupils in pre-university institutions. They include 48 Centers of Creation for Children having about 33,753 children, 15 Centers of Technical Creation for Children having 7,895 children, 12 Centers of Tourism and Excursions for Children and Youth having 5,362 children and 9 Centers of the Young Naturalists having 2,771 children.

694. The system of artistic extra-school education is aimed at discovering, developing and promoting young talented people.

695. During the last decade, the activity of extra-school institutions changed considerably. Social and political bodies and organizations were substituted with ethnic-folklore and handicraft organizations, erudite clubs, other types of leisure-time activities. A constant interest is manifested towards the technical, sport and tourist orientations. The groups of cultural and artistic orientations continues to be highly demanded. The situation is explained by the fact that extra-school institutions have also the responsibility of supplementing the insufficient artistic education of the children.

696. Extra-school institutions, by organizing a pleasant and useful leisure time and offering educational services, represent a favourable environment for a positive self-affirmation of the children whose families have little incomes or are socially vulnerable, and also of the children who need an increased pedagogical attention.

697. Despite all economic and social difficulties, extra-school institutions try to have a stable rhythm of extracurricular activities. Festivals of choral and folklore songs, exhibitions of fine art, photography, handicraft art, dance competitions, sport, tourist, technical and sport competitions, activities of young naturalists, mountaineering in the Făgăraşi mountains (Romania), Rila (Bulgaria), Olimp (Greece) became traditional in Moldova. A number of groups from the extra-school institutions have successfully performed at a variety of competitions, exhibitions, international festivals in Bulgaria, Germany, Romania, France, Turkey, Poland, etc.

698. Parents are entitled and obliged to educate their children, to care for their health, their physical, spiritual and moral development, for their education and readiness for a socially useful work.

699. Protection of the rights and interests of minor children is incumbent upon their parents, who are legal representatives of their children without any special empowerment.

700. Parental rights may not be exercised in contradiction with the children's interests.

701. If the parents (or one of them) do not exercise their duties of education properly or abuse of their parental rights, the children have the right to appeal to the guardianship authorities for protection of their rights and interests.

702. Parents have equal rights and duties in what concerns their children also if their marriage has been dissolved.

703. All matters regarding children's education are solved on the basis of a mutual agreement of their parents. If parents did not come to agreement, guardianship authority solves the litigious matter with their participation.

704. The non-custodial parent must take part in the education of his or her minor children and has the right to communicate with them. The custodial parent must not impede the other parent to communicate with the children and to take part in their education.

705. The guardianship authorities may deprive, for a certain term, the non-custodial parent of his right to communicate with the child, if it impedes normal education of the child and has a detrimental influence on him.

706. Both parents or other persons who legally represent the child are under the main equal responsibility for physical, spiritual, social and intellectual development of the child, taking into consideration, first of all, his interests.

707. Parents or persons who legally substitute them are under the obligation to ensure enrolment of children in one of the forms of compulsory education (public or private) or to ensure the child's instruction and education within the family, and to create adequate conditions for studies, developing his aptitudes, extra-school and self-instruction activity.

708. Parents or persons who legally substitute them shall be punished by law for lack of constant supervision over small children and children of the pre-school age.

709. The parents must support their minor children and their major children, if they are incapable to work and need help.

710. When the child is placed in a public institution for children, as a result of being abandoned or because of his disease, occurred as a result of disregard of doctor's recommendations, both parents shall cover the costs of child support.

711. Parents deprived of parental rights are not exempted from the duty to support their children.

712. The alimony pension for the support of minor children is pursued from the parents: for a single child - one-quarter for two children - one-third, for three or more children - one-half of parents' income.

713. The parents who support their minor children may be obliged to participate at supplementary expenses caused by some extraordinary circumstances (a grave disease, child's disability, a/o).

714. If the parent who is obliged to support the child has an irregular income or earnings, and does not receive a salary on a monthly basis, as well as in other cases when the pursue of alimony related to the income of the parent is impossible or creates difficulties, at the request of the interested person the alimony may be established in a fixed sum of money which should be paid monthly.

715. The money received from the parents for the support of their children whose custody is taken by the State institutions for children is transferred to the disciples' accounts at the Banca de Economii, if the parents are not legally exempted from the payment of children's support.

716. The person entitled to receive the alimony, may submit to the court a request of alimony pursuit, regardless of the term that has expired since this right appeared.

717. The alimony is adjudged from the moment when the request was submitted to the court and for the next period of time.

718. The alimony for the previous period may be requested through the court only within next three years, if the court will establish that before the trial measures necessary to receive the alimony were taken, but the alimony was not received, because the person under the obligation was evading payment. In these cases, parents may be put under the obligation to pay the alimony, even if their children have reached legal age.

719. The person obliged to pay the alimony shall announce the executor within three days about the change of the place of work or of residence and also about additional profit (for instance: profit received cumulated work, etc.).

720. The payment of alimony debts may be required on the basis of the writ of execution for the past period that includes not more than three years that expired before the moment when the legal basis was submitted for the execution.

721. The minors who, at the moment of adoption, have the right to receive a pension or another assistance from the State and public organizations, because of the death of the person who supported them, maintain this right when adopted.

722. Evading payment established by a court ruling for maintaining minor children (alimony) shall be punished according to the law in force.

723. According to the Code of Marriage and Family, adoption is allowed only regarding children and only in their interest. Adoptive parents may be citizens of both sexes, who reached the age of 25. Between the adoptive parent and the adopted child there must be a difference in age of at least 15 years. Upon well-grounded reasons this term may be reduced upon examination of the application for adoption, by no more than 5 years. Adoption requires the consent of the parent, if not deprived of parental rights and the consent of the adopted child, if the child reached the age of 10. An adoption made without the consent of the child's parents or the adoptive parent's spouse, may be annulled in court based on an action, brought by the child's parents or by the adoptive parent's spouse, if the court will determine that returning the child to his parents is in the child's interests. If the adoption is being annulled at the request of the child's parents, in case the child reached the age of 10, the child's will shall be taken into account also (articles 101, 102, 117 of the Family and Marriage Code).

724. The adoption is performed by the court of law at the request of the person who is willing to adopt a child.

725. The intermediary and non-official activity, aimed at providing the assistance for the adoption of the children, is prohibited, excepting cases prescribed by law.

726. The consent of the parents is required for the adoption, if not deprived of parental rights and the consent of the adopted child, if the child reached the age of 10.

727. If before the application for adoption was submitted, the child lived in the family of the adoptive parent and didn't know that the adoptive person is not his or her parent, adoption may be made, as an exception, without the consent of the child.

728. The parents' consent must be expressed through a declaration, certified at a notary's office or by the administration of a State institution for children, at which the child is being educated and maintained. Until bringing an action for adoption in court, the parent may withdraw the declaration of consent at any moment. Parents' consent to adoption is not required, if they were deprived of parental rights or pronounced incapable or missing in action, in a way, established by the law.

729. If the parents evade participating in the education of their child, adoption may be made, as an exception, without their consent.

730. Adoption may be made without the parent's consent, if they live separately from their child for more than six months and for no grounded reasons, do not take part in their education and maintenance, do not manifest parental attention and care towards the child.

731. If a married person is adopting the child, but not both spouses, consent of the other spouse is required.

732. Consent of the other spouse is not required, if this spouse was pronounced, in the way, established by the law, incapable, as well as if the spouses live separately for more than a year and the domicile of the other spouse is unknown.

733. For adoption of children, educated and maintained in the State institutions for children, in the event the parents' consent is not required, consent of the administration of this institution is required.

734. Upon internment of a child the administration of an institution for children may ask the parents, if they consent to adoption of their child in the future, not indicating the adoptive parent. The consent may be given not earlier than a month after the child's birth, and in exceptional cases even before the expiration of this term.

735. If the parents have already given such consent, in an authentic form, on examination of the cause on adoption of the child, a repeated consent is not required.

736. For adoption of a minor child, who is under guardianship, the written consent of the guardian is required.

737. If the guardian refuses to give his consent, the guardianship authority shall resolve the matter of adoption.

738. Adoption of children, who are citizens of the Republic of Moldova by foreign citizens is admitted if these children are put on the list of the Committee for Adoption of the Republic of Moldova, and have not been put under guardianship or adopted in the course of at least

six months after they were put on the list. In some exceptional cases, taking into account the vital interests of a child suffering from a grave illness, which may be cured only abroad, the Committee for Adoption of the Republic of Moldova, with a recommendation note of the Ministry of Health Protection, may make a decision on the adoption of the child before the expiration of the six months term.

739. The Committee for Adoption of the Republic of Moldova along with the guardianship authorities may give its approval for an adoption by foreign citizens.

740. Adoption of a child, who is a citizen of the Republic of Moldova, registered at the State authorities of the country the child lives in, shall also be considered valid under condition of obtaining an authorization from the Committee for Adoption of the Republic of Moldova.

741. A foreign citizen may adopt a child, who is a citizen of the Republic of Moldova, only if under the laws of the country the child is supposed to move in he will benefit from the guarantees and norms equivalent to the ones the child would have had in the event of his adoption at home, and if the laws of this country guarantee to the child rights not inferior to those guaranteed by the legislation of the Republic of Moldova.

742. The Committee for Adoption of the Republic of Moldova, through the instrumentality of the diplomatic and consular representatives of the Republic of Moldova and by other means, accepted by international law, should obtain guarantees from the State authorities and organizations of the country, whose citizen adopted the child - a citizen of the Republic of Moldova, that the child will benefit from the guarantees and norms, equivalent to the ones the child would have had in the event of his adoption at home.

743. International adoption is a component part of general adoption, contributing to the intensification of national adoption and of the process of the child's integration in his biological or akin family. In order to accept the adoption of a child abroad, meetings are repeatedly held with the persons close to the child, including his biological parents. Thus, from the total number of children registered with The Committee for Adoption of the Republic of Moldova (children not solicited for adoption by families from the place where he was born) 25 per cent found families inside the country (reunited with the biological family or where adopted by national parents).

744. The Criminal Code of the Republic of Moldova stipulates that the receiving by a parent, guardian quasi-guardian or other legal protector of a child or by some other person - of compensation of any form for giving consent to adoption or for other purposes involved with adoption, or for giving the child to other persons, who are not his parents, in a way different from the one established by the legislation, or for providing false information in order to legitimize the transmission of a child,

- is to be punished by imprisonment for a period of 3 to 10 years with the confiscation of the received reward.

745. Exertion of any kind of pressure over the parent, guardian, quasi-guardian, other legal protector of a child in order to receive consent for adoption or to give a child as well as providing false information in order to legitimize the transmission of a child

– is to be punished by imprisonment for a period of 7 to 15 years (art. 112-2).

746. Guardianship is instituted over children under 15, and quasi-guardianship over children older than 15. After the ward becomes 15 years of age, the guardianship ceases, and the guardian becomes quasi-guardian of the minor without any special appointment. Quasi-guardianship ceases when the ward becomes 18 years of age. Quasi-guardianship also ceases in the event of the minor ward's marriage at the minimal marital age reduced according to the legislation (arts. 128, 129, 153).

747. The guardians must live together with their wards. In some cases the guardianship authorities may approve living of the guardian separately from the ward, if the latter reached the age of 16, if living separately does not have an unfavourable impact on the education and protection of rights and interests of the ward. The guardians must notify the guardianship authorities of any change of their domicile.

748. If as a result of dissolution of marriage or for some other reason the parents do not live together, the parents agree which of them will take the minor children's custody. If the parents have not come to agreement, the court solves this dispute, taking into account the children's interests. If the child has reached the age of 10 the court shall also take into consideration the child's will.

749. The State will offer special protection to children deprived of family environment and will ensure the possibility of proper care by another family within an institution.

750. Guardians shall not be appointed for the children, whose education is totally undertaken by a public institution for children, and for major persons, needing guardianship and maintained in the respective medical institutions or the institutions under social assistance authorities. Exercise of guardianship over these persons is undertaken by the administration of the institution, in which the person needing guardianship is maintained.

751. The guardians must take care of maintenance of their major wards, create for them necessary living conditions, provide for their medical care and treatment and protect their rights and interests.

752. The guardians of mentally alienated persons, must, beside this, take care of and provide the ward with a permanent medical assistance. If the ward recovers, the guardian must appeal to the court asking to state the fact of capability of the ward and to repeal the guardianship instituted over this person.

753. The existent legislative framework foresees criminal liability for using guardianship, quasi-guardianship and patronage for making profit and in detriment of the person in guardianship or for leaving children placed in guardianship with no supervision or necessary financial help.

754. If the court considers as reasonable not to apply a criminal penalty to the minor who has committed a crime, it can decide the minor's institutionalization into a special institution of education or into a curative and educational institution.

755. According to the law, children, who temporarily or permanently, are deprived of the family environment or who cannot be left in this environment, for their own good, enjoy a special protection and help from the State.

756. Orphans and children who remained without parental care are either adopted or placed in other families or in State institutions for children.

757. The adoption of the children by foreigners is performed according to the law in cases when no proper solution can be found within the Republic. The necessity of ensuring continuity in education of the child, the ethnic, religious, cultural, linguistic origin and also his will shall be taken into consideration for choosing the best option.

758. When it is impossible to place the child, who was left without a family, within another family, he will be institutionalized in an orphanage or in other similar State institution. The institutionalization is performed according to the law.

759. The institutionalized children are supplied all necessary conditions for their physical, intellectual and spiritual development, for preserving their native language, culture, national traditions and customs, and cultivating in them, at the same time, skills for an independent life.

760. Distribution of children in special educational institutions is made only according to a court ruling, at the proposal of the competent authorities placed within the framework of the authorities of local public administration.

761. The child, placed in a special educational institution, has the right to humane treatment, protection of health, general and professional training, meetings with parents, relatives and other interested persons, holidays and correspondence.

762. A compulsory condition of placing the children in special educational institutions is their re-education in order to ensure their return to a normal life.

763. If both parents are deprived of their parental rights, the child will be handed over to the care of guardianship authorities.

764. During five years (1990-1995), 587 persons were deprived of their parental rights according to the court rulings.

765. Re-establishment of parental rights is not allowed if the child is adopted.

766. The child may be taken from his parents, according to a court ruling, even if they were not deprived of their parental rights, and handed over to the guardianship authorities, when the child's further stay with the persons he is staying with, presents danger for him.

767. If the motives for taking the child away from his family disappear, the court, at the request of the parents, may render a ruling by which the child is to be returned to his parents.

768. Articles 47, 48, 49, 50, 51 of the Constitution of the Republic of Moldova stipulate the rights of the family, mother and child of receiving special protection and care, the right of children and young people to enjoy a special form of assistance in the enforcement of their rights, the right to necessary allowances for children and the aid needed for the care of sick or disabled children.

769. In order to implement the Law on the Rights of the Child, the State Programme on Protection of the Rights of the Child was approved through the Decision of the Government of the Republic of Moldova No. 679 from 6 October 1995. The Programme foresees a number of measures that put in the responsibility of State structures the creation of favourable environment for the growth and development of the child.

770. The increase of the number of congenital and traumatic anomalies leads to the increase of the number of disabled persons. The number of disabled persons under 15 was 8,900 in 1992 and 14,200 in 1999. The increase of the number of disabled children leads to serious social and economic problems connected with their support in the society.

Table 8

Disabled children

	1992	1993	1994	1995	1996	1997
The number of persons under 16 disabled from childhood, registered with the bodies of State insurance	8 858	10 036	10 475	10 752	11 009	11 529
The number of children placed in boarding houses for disabled children	526	551	552	493	515	529

Source: the Ministry of Labour, Social Protection and Family.

771. One of the main rights of the children is the right to full health and the right of access to sanitary and medical services stressed on a primary and preventive care of the health, on the education regarding health and on the rational nourishment.

772. Protection of the health of mothers and children in the Republic of Moldova is recognized by law as a priority in the activity of all State bodies.

773. According to the Law on the rights of the child, the child's health is protected from the pre-natal period. Children benefit from medical assistance and latest technologies existing in the country. For the first time the law foresees the obligations of parents regarding protection of children's health.

774. Unfortunately the period of transition in the Republic of Moldova led to some rather negative processes and tendencies that considerably affected the children's condition.

775. At present, the institutional structure of the health protection system is subjected to certain changes connected to the reform performed in the health protection system, which refers to the development of the primary medical assistance, aimed at increasing the access of population to medical assistance, the quality and optimization of the costs in the health protection system.

776. The medical assistance to the population, including children, is granted by the family doctors at the primary level (the Centres of the family doctors, Health Centres, Offices of family doctors). The medical hospital assistance is granted at the level of sector and county hospitals. The medical specialized assistance and highly qualified assistance is performed at the level of Republican medical institutions. The problems regarding children's health and care, within the cross-sector and international collaboration, are coordinated by the Department of the Ministry of Health regarding medical assistance granted to the mother and child.

777. The decline of the care and nourishment conditions granted to children presently leads to the anaemia disease of about 20 per cent of the children in their first year of life, rickets of about 35.5 per cent, neural system diseases - 20 per cent of the children.

778. Unfortunately the socially tragic phenomenon of abandoning newborn children is increasing. About 350 children are annually abandoned in the maternity hospitals and because of the lack of mother's warmth and care from the very early age, they are always in danger of becoming ill and dying. Staying in the conditions of medical institutions leads to the somatic and psychical morbidity of all these children.

779. The situation in the Republic of Moldova is the following: children born with various deficiencies, leading to their disability, cannot be treated properly and in due time in order to be able to integrate them in the society.

780. At the beginning of 1999, 14,469 disabled children were registered with the doctors. The number of the disabled children doubled in the last 10 years, and 65 per cent of them suffer from the psycho-neurological and orthopaedic deficiencies. The level of traumatism among children is also high. All these children need a long treatment of rehabilitation.

781. The creation of the Republican Centre of rehabilitation of children with serious diseases has been discussed at different levels during last five years, but unfortunately this Centre has not been created yet because of the lack of financial resources.

782. Taking into consideration the reduced possibilities of the present State budget for the full finance of the health protection system, the following State Programmes regarding the key problems within the field of the health protection, especially of the mother and child, were adopted by the Government of the Republic of Moldova:

- National Programme of strengthening the pre-natal medical assistance;
- National Programme of ameliorating the medical-genetic assistance;
- National Programme of nourishing the children;
- National Programme of the oral health of children;
- National Programme of immune-prophylaxis;
- The Plan of actions dedicated to the Year of Children;
- National Programme of ameliorating the assistance in family planning and the protection of reproduction health.

783. Taking into consideration the urgent problems mentioned above, a number of ameliorating measures are taken, first of all aimed at reforming the primary medical assistance. This will lead to the increase of medical assistance volume and quality, given first of all to pregnant women and children at their residence. The possibilities of optimizing the financial costs within the medical institutions that would facilitate the improvement of the access to primary and hospital medical assistance and to a better supply with medicines, are being looked for.

784. During the last years, the Ministry of Health with the support of the World Health Organization and UNICEF has successfully implemented the projects of combating the diarrhoea and acute respiratory diseases among children, of protecting of breast suckling, and also the Ministry began the implementation of the strategy "An integrated demeanour of the maladies among children"; and the projects that completely support the State Strategy of developing the system of health protection within the country.

785. In order to achieve the goals of the social protection of children, a number of regulations were elaborated regarding the solving of the most acute problems of families, mother and of the child, the increase of the degree of the social protection regarding poor families with children.

786. Article 48 of the Labour Code stipulates the reduced length of the working week for employees aged between 16 and 18 - 36 hours, and for pupils aged between 15 and 16 - 24 hours. Article 53 foresees the incomplete length of work for pregnant women and for women with children under 14 or with a disabled child under 16.

787. Once the Law on pensions of the national social security came into force disabled children do not receive a social pension anymore. Thus, this category of children is in the care of the State.

788. For this purpose, the Law on national social allowances for certain categories of citizens No. 499-XIV was passed on 14 July 1999. Article 3 (c, d) of this law stipulates that from these allowances benefit disabled children of degree I, II, III under 16, and children who have lost the person supporting them. The allowances established by this law are paid from the State budget, through the national social allowances budget. Article 8 of the Law stipulates the amount of the allocation as a per cent ratio of the minimal pension for the age limit:

Disabled children I degree - 100 per cent,

Disabled children II and III - 85 per cent.

789. Article 9 of this law stipulates that the children's allocation, in case of loss of the person supporting them, is given when the deceased person did not fulfil the conditions necessary for obtaining the right to national social allowances.

790. Allocations for children, in case of loss of person who supports, is given to persons under the age of 18 (pupils and students of institutions of secondary and higher education - until graduation from this institution, but only until the age of 23) when the latter are not fully supported by the State and do not have stable earnings.

791. Allocation for children, in case of loss of person who supports, is set at 75 per cent of the minimal pension for the age limit for every child, but not more than 1.5 minimal pensions for age limit. If both parents are lost, the amount of allocation is doubled.

792. The Republic of Moldova inherited from the Soviet times a certain number of institutions where orphans, abandoned children, mentally or physically handicapped children, children from the families with complex social problems are kept. According to the latest statistics, about 15,000 children are outside of their homes.

793. Children with health problems or social problems are protected within the following institutions:

- Orphanage for children between 0-7 years;
- Special kindergartens;
- Orphanages for children between 7-18 years;
- Orphanages for children with mental deficiencies;
- Boarding schools for orphans and children without parental care;
- General boarding schools;
- Auxiliary boarding schools (for children with mental deficiencies);

- Special schools for children with chronic maladies, physical and sensorial deficiencies;
- Schools for children with behavioural deviations;
- Schools of sanatorium type for children.

794. The reasons of institutionalization have usually a social character. Children come from families with many social problems amplified by the difficulties of the transition period. The excessive dependence on the institutionalization, to a large extent, is due to the existence of the services which support families in crisis, because they use institutionalization as the best way of social protection. The forestalling of the children's separation from their parents is quite reduced, because of the difficult material state of the families with children. The State did not take necessary measures and did not ensure the creation of the conditions of maintenance, education, recovery and social integration of these persons.

795. It is necessary to develop a complex system of forestalling the institutionalization of children, of encouraging alternative ways of family consolidation, of their temporary or long-term establishment within a family, of their adoption, etc.

796. A major objective of the strategy of the Government in the field of children's rights protection constitutes the reorganization and diversification of institutions of children's protection, by changing the existent institutions into institutions of family type and also by creating maternal centres, day centres, social-medical-educational centres for children with deficiencies in order to keep children in their natural families.

797. The structural reform in the field of children's protection needs both financial and human resources.

798. The Strategy of the poverty alleviation and the National Programme of the poverty alleviation were issued according to the results obtained from the examination of the household budgets, performed with the financial and technical support of the World Bank and the United Nations Development Programme in Moldova. The analysis of results obtained from the examination of the condition of household budgets indicates that the most numerous group of the socially vulnerable categories of people, threatened or already affected by poverty, constitute children. The Programme foresees a special compartment that contains measures of protecting children against poverty. It is planned to issue the following sub-programmes: "Our children", "Orphan children", "Disabled children". These measures, under different forms (money, materials, subsidies for communal services payments), are aimed at providing material support for the families with children.

799. The performed actions regarding children shall take into consideration all their supreme interests. The State ensures an adequate care of children when their parents or other responsible persons do not manage to do it. The State guarantees to the disabled children and children with physical or mental handicap - free medical assistance, special psychological help, general or professional instruction, employment according to their capacities, re-socialization in order for the children to enjoy a decent life in conditions that would facilitate their active participation in social life.

800. The State ensures disabled children with national social allowances.

801. Every child has the right to live in a family, to know his parents, to benefit from their care, to live together with them, except in cases when separation from one or both parents is necessary for the interest of the child.

802. The right of the child to life and to physical and mental inviolability is guaranteed by the State both by the Constitution and by the Law on the rights of the child.

803. The State protects the inviolability of the child from any form of exploitation, discrimination, physical and psychical violence, by not allowing cruel, rude, disdainful, insulting and maltreating behaviour.

804. The right of the child to name is regulated in the Republic of Moldova by the legislation in force. Thus, the Law on the rights of a child in article 5 stipulates that the child has the right to name from his birth, which is registered in accordance with the provisions of the Code of Marriage and Family.

805. The Marriage and Family Code foresees that a child born in a marriage receives the family name of his or her parents. If the child's parents do not have a common family name, the child gets the family name of his or her father or mother, on the basis of an agreement between the parents, and if there is not such an agreement, the local guardianship authority decides which family name the child should have. The child is given a simple first name or a first name composed of two or more names, as his or her parents wish.

806. Alteration of the family name of both parents results in the alteration of the child's family name, and if only one parent changes his family name, the child's family name may be altered at the common consent of the parents. If there is not such an agreement, the local guardianship authority solves this problem.

807. Alteration of the family name of both parents or of one of them does not result in the alteration of the child's family name, if the child attained the age of 18 years.

808. Cessation of the parents' marriage or judgement of its nullity does not result in the alteration of the children's family name.

809. If after the dissolution of marriage or the judgement of its nullity the custodial parent wants to give the child his or her own family name, the local guardianship authority may solve this problem, taking into account the child's interests, even if the other parent is against the alteration of the minor child's family name.

810. If the child's parents are not married, and his family name and the information about the father were recorded on the basis of establishment of paternity, the local guardianship authority may solve this problem, taking into account the child's interests, even if the other parent is against the alteration of the minor child's family name.

811. Alteration of the family of a child who has reached the age of 10 is always made at the latter's consent.

812. The right of the child to citizenship is foreseen both by the Law on the rights of the child which stipulates that every child has the right to a citizenship and the Law on citizenship. According to the Law on citizenship, the child born in the Republic of Moldova from parents who are citizens of the Republic of Moldova is a citizen of the Republic of Moldova.

813. The citizens of the Republic of Moldova are also persons who:

1. Were born in the Republic of Moldova, even if only one of their parents is a citizen of the Republic of Moldova;

2. Were born abroad and both of their parents or one of them is a citizen of the Republic of Moldova;

3. Were born in the Republic of Moldova from stateless persons;

4. Were born in the Republic of Moldova from parents who are citizens of other States, if these States do not grant their citizenship to the child.

814. The child who is found in the Republic of Moldova is considered a citizen of the Republic of Moldova, if none of his parents is identified.

815. The child who is a foreign citizen or a stateless person, obtains the citizenship of the Republic of Moldova by adoption, if his adoptive parents are citizens of the Republic of Moldova and the adoptive person is under 16.

816. The child who is a foreign citizen or a stateless person, adopted by the spouses and if one of them is a citizen of the Republic of Moldova and the other one is a stateless person, becomes a citizen of the Republic of Moldova. The child who is a foreign citizen or a stateless person, adopted by the spouses and if one of them is a citizen of the Republic of Moldova and the other one is a stateless person, becomes a citizen of the Republic of Moldova on the basis of the agreement reached by the adoptive parents. When they do not reach such an agreement, the court will decide the minor's citizenship, taking into consideration his interest. If the child has turned 14, it is necessary to ask his consent.

817. If the adoption is performed by a person who is a citizen of the Republic of Moldova, the minor obtains the citizenship of his adoptive parent.

818. The child, citizen of the Republic of Moldova, who is adopted by a foreign citizen or if one or both of the adoptive parents are foreign citizens, maintains the citizenship of the Republic of Moldova.

819. The child, citizen of the Republic of Moldova, who is under the guardianship or quasi-guardianship of citizens of the Republic of Moldova, and whose parents or one of them live in the Republic of Moldova and do not take part in his education, maintains the citizenship of the Republic of Moldova.

820. The State is under the obligation to protect and, when necessary, to restore the basic aspects of the child's identity.

821. The Constitution of the Republic of Moldova stipulates that no one shall be deprived arbitrarily of his/her citizenship or the right to change it.

822. The Law on citizenship stipulates that a citizen of the Republic of Moldova who lives abroad will not lose his citizenship, regardless of the length of his stay there.

ARTICLE 25

823. The Constitution of the Republic of Moldova stipulates in article 33 "The right of voting and being elected" the following:

1. The foundation of State power is the will of the people made known through free elections held at regular intervals and based on universal, equal, direct, and free suffrage.

2. Except for the persons banned from voting by law, all the citizens of the Republic of Moldova having attained the age of 18 on or by the voting day inclusively have the right to vote.

3. The right of being elected is granted to all citizens of the Republic of Moldova enjoying the right of voting.

824. The Electoral Code of the Republic of Moldova, passed by Law No. 1381-XIII from 21 November 1997 (Monitorul Oficial of the Republic of Moldova No. 81-667 dated 12 December 1997) stipulates:

> "The citizens of the Republic of Moldova have the right to vote and to be elected without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political affiliation, personal property or social origin" (art. 3).

825. Article 39 "The right of administering" of the Constitution of the Republic of Moldova foresees the following:

1. The citizens of the Republic of Moldova have the right of participating in the administration of public affairs, either directly or through their representatives.

2. The access to a public office or position is guaranteed by law to all citizens of the Republic of Moldova.

826. Article 13 "The right of access to public service" of the Law on public service No. 443-XIII from 4 May 1995 (Monitorul Oficial of the Republic of Moldova No. 61/681 from 2 November 1995) stipulates the following:

1. Citizens of the Republic of Moldova have the right to access to public service, without any discrimination based on such grounds as race, nationality, sex or confession, if they live permanently in the Republic, have necessary studies, are physically capable of exercising the position according to the medical certificate that confirms the health of the person, and if they are not subjected to the restrictions stipulated in article 11;

2. The person who is employed in public service must speak Moldavian language within the limits stipulated by the Law on the use of languages in the territory of the Republic of Moldova.

827. The statute of woman in the Republic of Moldova, according to the prescriptions of the law in force, is not an obstacle for her promotion within new democratic institutions, created after the declaration of independence. The Constitution of the Republic of Moldova foresees the equality in rights of all citizens, the right to vote and to be elected in the leadership bodies, guarantees the women's right of access to any position in accordance with their qualification (arts. 16, 38, 39).

828. However, the access and participation of women in the issue and implementation of the policies regarding economic and social development, and also in taking the responsibilities of decision-making, are not significant.

829. During the period of State establishment, after the independence of the Republic was proclaimed, women's presence in the State positions of decision-making has been poor. Their presence in the elective bodies, during 1990-1996, has been of 3.8 per cent and 4.9 per cent in the Parliament, increasing to 8.9 per cent in 1998. A significant participation of women within the judicial bodies has been noticed recently, constituting 30 per cent from the total number of the judges from the Supreme Court of Justice.

830. The participation of women in the activity of political parties is also significant. Unfortunately, official statistics do not give necessary attention to the share of women's participation in political and economic processes. Taking into consideration the fact that participation in the political life and promotion within decision-making structures may take place only by promotion within the party, the women of the Republic of Moldova are more actively involved now in the life of the parties. If in 1994, 131 women, on behalf of 13 parties and electoral blocs, were present in the candidate lists, then in 1998 this number was 212, increasing almost twice from 1994. The double increase of the number of women (from 4.9 per cent to 8.9 per cent) in Parliament, elected in 1998, indicates not only quantitative, but also qualitative changes. Amendments to the Law on parties and other social and political organizations were made. Thus, article 7, paragraph 6 stipulates: "parties and other social and political organizations shall promote the principle of equality between women and men within

decision-making bodies of all levels". This amendment allows women to be promoted within the party and, implicitly, to be included in the candidate lists. For the time being, this issue is not confirmed by other legal acts that would ensure its observance.

831. Even though women take part in social and political life of the society, they are still little promoted to the positions of leadership within political parties. There are parties where women constitute a large percentage of members. Small participation of women in the process of taking political decisions certainly does not have a positive impact on the process of developing policies and making decisions.

Table 9

Women in Government and in Justice

The position	1990		1994		1996		1999	
Men/women	M	W	M	W	M	W	M	W
Ministers	13	1	20	-	17	-	15	1
Vice-ministers	86	6	54	3	55	2	45	8
Chiefs of the department	59	1	55	2	10	1	10	2
Counsellors (local bodies)		35%				39.2%		9.7%
Mayors		13%				10.3%		8.74%
The Supreme Court of Justice	44	13	36	7	36	7	15	5

ARTICLE 26

832. According to article 16, paragraph 2 of the Constitution of the Republic of Moldova passed on 29 July 1994:

> "All citizens of the Republic of Moldova are equal before the law and the public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political affiliation, personal property or social origin."

833. Article 53 "Right of person aggrieved by public authority" of the Supreme Law of the State foresees the following:

1. Any person, whose rights have been trespassed upon in any way by public authority through an administrative ruling or lack of timely legal reply to an application, is entitled to obtain acknowledgement of those rights, the cancellation of the ruling and payment of damages.

2. The State is under patrimonial liability, as foreseen by the law, for any prejudice or injury caused in lawsuits through errors of the police or the judiciary.

834. Article 20 "Free access to justice" of the Supreme Law stipulates:

1. Every citizen has the right to obtain effective protection from competent courts of jurisdiction against actions infringing on his/her legitimate rights, freedoms and interests.

2. No law may restrict the access to justice.

835. The Law on judicial system No. 514-XIII from 6 July 1995 (Monitorul Oficial of the Republic of Moldova No. 58/641 from 19 October 1995) contains the following provision in article 8 "Equality before the law":

"All citizens of the Republic of Moldova are equal before the law and the judicial authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, political affiliation, personal property or social origin, or other status."

836. According to the Law on legal statute of aliens and stateless persons in the Republic of Moldova No. 275-XIII from 10 November 1994 (Monitorul Oficial of the Republic of Moldova No. 20/234 from 29 December 1994):

"Aliens and stateless persons are equal before the law and public authorities, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, personal property or social origin" (art. 5, alin. 3).

837. The Civil Procedure Code of the Republic of Moldova stipulates in article 6 "Administration of justice based on the principle of equality before law and court of the citizens" the following provision:

"Justice in civil trials shall be administered by courts of law only based on the principle of equality before law and court of the citizens, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, opinion, political choice, personal property or social origin, or other status."

838. The Criminal Procedure Code foresees in article 8 "Administration of justice based on the principle of equality before law and court of the citizens" the following provision:

"During the administration of justice within criminal cases, all citizens are equal before the law and court, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, personal property or social origin, form and character of the occupation, residence, citizenship, or other status."

ARTICLE 27

839. Protection of persons belonging to ethnic minorities does not differ in the Republic of Moldova from the protection granted to all citizens of the country and thus they all have the same rights and duties.

840. The principles of equality and non-discrimination of the citizens are present within all legislative and institutional systems of the Republic, and "respect and protection of the human person is the foremost duty of the State" (article 16, paragraph 1 of the Constitution).

841. The equality before the law and public authorities of the citizens of the Republic of Moldova, without any discrimination as to race, nationality, ethnic origin, language, religion, sex, opinion, political affiliation, personal property or social origin is guaranteed by the Supreme Law of the State (art. 16 (2)).

842. The Constitution of the Republic of Moldova stipulates the idea that "the Republic of Moldova is the common and indivisible motherland of all her citizens" (art. 10 (1)). This provision, followed by the statement that "the State recognizes and guarantees all its citizens the right to preserve, develop and express their ethnic, cultural, linguistic and religious identity" (art. 10 (2)), constitutes an important factor for the determination of those two tendencies oriented towards the development and education of the whole society: ethnic identity and ensuring the unity of the whole nation based on its development.

843. The ideas stated above have constituted the foundation of the State policy regarding encouragement of learning about the culture, history, language and religion of the ethnic minorities from the country. They also led to the elaboration of the Programme regarding the activity of the Government of the Republic of Moldova during 1999-2000 "The supremacy of law, revival of the economy, European integration". The Ministry of Culture and the Ministry of Education and Science have established the priority directions of the activity regarding actions of promoting culture, science and educational reform.

844. The Law on education No. 547 of 21 July 1995 stipulates the following main goals of education in the Republic of Moldova:

- the cultivation of respect for human rights and freedoms, regardless of ethnic origin of the person;

- preparation of the child for assuming life responsibilities in a free society, in the spirit of friendship among nations, of respect for cultural values of the ethnic, national and religious minorities;

- education of the respect for the identity, language and cultural values of the nation, and also for the national values of the country he is living in.

845. The Law on education and the Law on the use of the languages spoken in Moldova stipulate an important principle: the State ensures the right to choose the language for the education and training in all levels of the education system, by establishing the priority of the one language system as a form of organizing the educational process. Ethnic minorities, according to these provisions, may have schools with teaching in their maternal language.

846. Because education in maternal language constitutes a basis of maintaining and developing linguistic and cultural identity for any ethnic group, the State guarantees its gratuity and access to it through the existence of a large network of the pre-school institutions, schools, secondary schools, gymnasiums and higher education system.

847. Article 18 of the Law on the use of the languages spoken in the Republic of Moldova foresees the creation of necessary conditions for the implementation of the right of citizens belonging to other ethnic groups who live in the Republic to education and teaching in their native language, directly referring to the Gagauz, Ukrainian, Russian, Bulgarian, Jewish and Yiddish languages.

848. According to the Law on education, the State creates necessary conditions both for learning the State language by all citizens in order to facilitate their integration on the basis of the equality in rights, in different spheres of the economic, political and cultural life of the Republic, and also for ensuring ethnic minorities with the possibility of learning their native language in order to preserve their spiritual values.

849. The conscience of the fact that the official language should be learnt is growing within society. Before 1990 a part of Moldavians were studying in schools where teaching was effected in Russian language, and now many children of Russian origin, because of their parents' will, prefer to study in schools where teaching is performed in the State language. As a consequence, the number of schools in which teaching is effected in Russian language has decreased.

850. This situation is also explained by the fact that a number of Russian schools have been transformed recently into schools in which education is effected in Ukrainian, Gagauz and Bulgarian languages. The data confirm the increase of the number of these schools:

School year 1990-1991

the total number of schools	1 576	the total number of pupils	720 800
Moldavian schools	1 025	in Romanian (Moldavian)	434 200
Russian schools	421	in Russian	286 600
Moldavian-Russian schools	128		
others	2	in other languages	0.0

School year 1997-1998

the total number of schools	1 493	the total number of pupils	647 000
Moldavian schools (76.0%)	1 097	in Romanian (Moldavian)	492 000
Russian schools (23.9%)	277	in Russian	154 500
Moldavian-Russian schools	111		
others	8	other languages	0.500(0.1%)

851. At present, the draft of the Educational Conception of the Republic of Moldova is at its final stage. It includes general approaches to the educational problem, in whole and in part.

852. On the basis of the proposed conception, the model of the personality of a democratic society may be projected. Among the traits of this personality, there is the aptitude of defending its social, professional, cultural and ethnic interests.

853. The education is based on the following principles: the unity of social life and education, the unity of general-human and national values, and of multicultural education. The general-human values are created as a result of the activity conducted within the social spheres and human existence. These values are manifested through the traits of the person, tolerance of cultural and religious diversity being one of them.

854. The draft of the Educational Conception foresees the following objectives of the educational system:

I. The cultivation of respect for human rights and freedoms, regardless of their ethnic origin;

II. Preparation of the child for assuming the responsibilities of life within a free society, in a spirit of peace, equality between the sexes and harmony between all peoples of ethnic and religious groups.

855. In order for the person to form and develop as a personality, he/she needs a favourable environment. Among the social conditions, the community environment has an important role. Ethnic community, by its specific customs and traditions, by the values of the culture, has a significant role in the personalization of the individual in the continuity of his identity. The affiliation to the ethnic community is beneficial for the affirmation of the individual's prestige both on its level and on the level of the ethnic community.

856. The programme named "The regulation of the inter-ethnic and intercultural co-existence in the Republic of Moldova" serves as a strategic orientation for the implementation of the Educational Conception.

857. On the basis of the Law on education, the educational conception in the Republic of Moldova, and also on the basis of current tendencies in the curriculum development in the world, the basic curriculum was issued.

858. The implementation of the curriculum reform gives a solution to an ensemble of objectives entrusted by society to education and must fulfil the needs of free and full development of the human personality.

859. The curriculum reform in the Republic of Moldova is regulated by a coherent ensemble of the objectives.

860. The major educational objective of the school implies the free and harmonious development of the person, and formation of the creative personality that can adapt to the conditions of the continuous change of life.

861. Education has the objective of:

III. Cultivation of the respect for human rights and freedoms, regardless of the ethnic and social origin of the person, or his/her attitude towards religion - these principles are included in the Charter of the United Nations;

IV. Preparation of the child for assuming the responsibilities of life in a free society, in the spirit of understanding, peace, tolerance, equality between sexes and collaboration between all nations and ethnic, national and religious groups;

V. Creation of capacities necessary for tolerance and conflict solving;

VI. Respect of the general-human, social, cultural, moral and national values;

VII. Understanding and acceptance of the democratic values of tolerance and intercultural dialogue;

VIII. Knowledge of the national and universal literature and art values;

IX. Knowledge of the human rights and equality between different ethnic groups;

X. Respect for values, tolerance towards races, nationalities, religions, ways of life, by cultivating the interest for the quality of social life, for cooperation and equity;

XI. Overcoming of the ethnic, linguistic and cultural framework, in forming new values, as a member of a larger community;

XII. Cultivation of an ethnical and cultural identity, interest and tolerance towards the values of literature and art of other nations;

XIII. Cooperation and collaboration with different people, regardless of nationality, race, sex or religion;

XIV. Contribution to mutual understanding on the international and inter-community level.

862. There are no legal rulings in the Republic of Moldova that would encourage a policy of forced assimilation of persons belonging to ethnic minorities. The process of integrating minorities into the majority nation, according to current linguistic legislation, involves volunteer study of the official State language. A characteristic feature of the integration process is that it is primarily aimed at linguistic integration, i.e. plenary use of the official language, exchange of spiritual values among the representatives of co-inhabiting ethnic groups and concurrently - development of ethnic identity of persons belonging to ethnic minorities.

863. Together with schools with State language instruction, in Moldova there are also primary schools, secondary and high schools, in which instruction is effected in languages of ethnic minorities (detailed information below).

864. In places densely populated by Ukrainians, Bulgarians and Gagauzi, conditions are created for undergoing pre-school education in their native language. It should be mentioned that during the soviet regime children belonging to these minorities were studying in schools only in the Russian language. At present, education and instruction of children of Jewish and Polish origin in their native languages became possible. Children of Belorusian, Lithuanian, Greek, Azeri and German origin learn their native language and receive knowledge about their national culture in Sunday schools, created by the respective ethnical and cultural organizations.

865. The preparation of the teaching staff for kindergartens and schools, in which instruction is made in the languages of ethnic minorities, has already been organized in the Republic.

866. The following institutions have been founded during last 10 years: the State University of Comrat (with teaching in the Gagauz language), Slavonic University, Pedagogical College "M. Ciachir" (in Comrat), Pedagogical College "Kiril and Metodiu" in Taraclia city (with teaching in the Bulgarian language), a branch of the music college "Ştefan Neaga" (in which teaching is effected in the Bulgarian language) in Tvardiţa.

867. Departments specialized in the preparation of bilingual specialists in the field of Romanian-Ukrainian philology (the State University "A. Russo", in Bălţi), Romanian-Gagauz and Romanian-Bulgarian (Pedagogical University "I. Creangă", in Chişinău).

868. The distribution of pupils who study at the institutions of secondary public vocational education, according to their nationality, during the academic year 1999-2000 is the following:

Moldavians	78 per cent
Russians	9 per cent
Ukrainians	7 per cent
Gagauzi	4 per cent
Other ethnic groups	2 per cent

869. Depending on the language of instruction, educational plans are elaborated, in the institutions of education from places densely populated by ethnic minorities, regarding teaching of the native language as a school discipline (three hours per week). At present in Moldova function: 1,086 schools (with 459.7 thousand pupils) in which instruction is effected in the Romanian language (Moldavian); 257 schools (121.2 thousand pupils) with instruction in the Russian language; 125 mixed schools (58.9 thousand pupils) with 32.2 thousand pupils studying in the Romanian language (Moldavian), 26.4 thousand pupils - in Russian and 0.3 thousand pupils - in the Ukrainian language.

Table 10

Distribution of schools and pupils according to the language of instruction during 1992-1999 (not including schools for children with deficiencies in intellectual or physical development and sanatorium schools)

	1992/ 1993	1993/ 1994	1994/ 1995	1995/ 1996	1996/ 1997	1997/ 1998	1998/ 1999
Schools - total number	1 432	1 444	1 458	1 470	1 485	1 493	1 505
Schools with instruction in:							
Romanian language (Moldavian)	1 020	1 031	1 047	1 065	1 081	1 097	1 115
Russian	313	284	281	283	279	279	268
Romanian (Moldavian) and Russian	99	123	123	113	115	111	114
Ukrainian and Russian	-	6	7	7	8	3	3
Bulgarian and Russian	-	-	-	1	1	1	3
Yiddish	2	2	2	2	2	2	2
English	-	-	-	1	1	1	1
Turkish	-	-	-	-	-	1	1
Pupils - total number, thousands	609.4	614.9	623.9	636.9	643.7	647.0	645.0
Pupils who study in:							
Romanian language (Moldavian)	431.5	444.9	458.5	477.4	485.0	492.0	495.1
Russian	177.9	169.4	164.1	157.2	156.9	154.5	149.0
Ukrainian	-	0.6	1.3	2.2	1.7	0.3	0.3
Bulgarian	-	-	-	0.03	0.03	0.12	0.16
Yiddish	0.4	0.5	0.5	0.3	0.5	0.6	0.6
English	-	-	-	0.1	0.1	0.1	0.1
Turkish	-	-	-	-	-	0.1	0.2
Of the total number of pupils, study their native language as a school discipline:							
Gagauz	25.7	19.9	31.3	29.2	32.1	31.8	32.2
Bulgarian	6.9	6.1	6.8	7.1	7.8	8.3	7.8
Ukrainian	1.3	0.6	1.3	1.8	2.4	2.9	2.3
Polish	0.02	0.03	0.04	0.06	0.06	0.04	0.1
German	-	0.05	0.1	0.4	0.5	0.1	0.1
Turkish	-	-	-	-	-	0.1	-

870. At present, the Ukrainian language as a subject is taught in 71 general education schools and in 7 high schools with 10,091 pupils. Within 16 experimental classes, 338 pupils study all disciplines in the Ukrainian language. The Pedagogical College from Lipcani prepares teaching staff for Ukrainian language and literature.

871. The Bulgarian language is taught within 27 pre-school institutions (13,338 children), 26 general schools (7,994 pupils) and 3 high schools: in Taraclia, Comrat and Ciadir-Lunga (524 pupils). Six experimental classes (with 122 pupils), within which instruction for all disciplines is performed in the Bulgarian language, function in the Republic.

872. There are Sunday schools functioning within the framework of the Nationalities House, organized by certain ethnical-cultural societies, within which children study their native languages - German, Polish, Lithuanian, Greek.

873. There is a special State programme at the higher school level for the organization of higher education system in the languages of the ethnic minorities. Within ethnic groups with a special profile, the teaching of the speciality subjects is performed in the native language of the students.

874. There are the following statistics in the Republic regarding the higher educational system: during the educational year of 1998/1999 there were working 38 institutions of the higher educational system in the Republic of Moldova. The number of students was 72,729 thousand.

875. The structure of the students, according to their ethnic origin, is the following: Moldavians - 72 per cent, Russians - 13 per cent, Ukrainians - 9 per cent, Gagauzi - 4 per cent, Bulgarians - 2 per cent.

876. This structure represents the following situation if expressed in absolute figures: the total number of students is 72,729, of which: 52,316 are Moldavians, 9,228 - Russians, 6,304 - Ukrainians, 2,663 - Gagauzi, 1,584 - Bulgarians, 201 - Yiddish, 43 - Gypsies, other nationalities - 430.

877. Two thirds of the total number of students who study within the higher educational system are taught in the State language, 31 per cent - in the Russian language. There are also groups studying in the Ukrainian, English, French, German, Spanish, Bulgarian and Gagauzi languages.

Table 11

Number of students according to the language of instruction during the academic year 1998-1999

Language of instruction	Number of students
Romanian (Moldavian)	47 994
Russian	22 240
English	1 284
French	791
German	137
Romanian/Russian	92
Romanian/Ukrainian	87
Ukrainian	76
Spanish	28
Total number	72 729

Source: Ministry of Education and Science.

878. A university functions within the Territorial Administrative Union Gagauzia in which the majority of students are representatives of this ethnic group.

879. The Slavonic University with humanitarian profile and specialization in philology of the co-inhabiting Slavonic ethnic minorities (Russian, Ukrainian, Bulgarian) was founded in Chişinău with the purpose of efficiently solving the problems of interference between Slavonic and Roman cultures in the Republic of Moldova.

880. The process of transition towards the market economy in the Republic of Moldova led to certain reorganizations within the educational system. The private sector was created within secondary and higher education systems, including private sector created on the initiative of persons who belong to ethnic minorities.

881. Preparation of teaching staff is also performed on the basis of student exchanges from different foreign countries. About 10.7 thousand citizens of Moldova study abroad.

882. The Republic of Moldova entirely encourages the culture development, history research, studying of language and officiating the religious cults by ethnic minorities, as those of native nation are officiated. Due to the measures taken, a democratic political framework was created, contributing to solving the problems of ethnic, linguistic and religious minorities, being based on the following fundamental principles:

- education of citizens in spirit of the principles regarding cultural pluralism and constitutional patriotism, tolerance and respect towards cultural values of every ethnic group and common historical patrimony;

- keeping the spiritual treasure of all ethnic groups situated in the Republic, contributing, at the same time, to the integration process of Moldova into the European Community;

- creation of the most propitious conditions for the plenary use of official language and for the protection of the other languages spoken in the country.

883. The Republic of Moldova has developed an ample framework of promoting the culture of the ethnic minorities. Thus, the following rulings were passed after 1990:

1. The Decree of the President of the Republic of Moldova No. 64 of 22 February 1991 regarding the guarantee of developing the national Ukrainian culture within the Republic and the Resolution of the Government No. 219 of 25 April 1991 on this issue;

2. The Resolution of the Government of the Republic of Moldova No. 336 of 9 July 1991 regarding the measures of ensuring the development of the national Russian culture within the Republic;

3. The Decree of the President of the Republic of Moldova No. 0604-945 of 12 August 1991 regarding the measures of ensuring the development of the national Jewish culture and fulfilment of the social necessities of the Jewish population living in the Republic of Moldova and also the Regulation of the Government on this issue;

4. The Decree of the President of the Republic of Moldova No. 79 of 30 March 1992 regarding certain measures that shall be taken in order to ensure the development of the national Bulgarian culture and the Resolution of the Government No. 428 of 23 June 1992 on this issue.

884. The rulings cited above express the essence of the policy performed by the young Moldavian State towards the ethnic minorities.

885. Culture has a priority role in the promotion of the inter-ethnical harmony by its essential contribution granted to the building of the human identity, and implicitly of the tolerance towards cultural diversity. This exclusive desideratum of culture constitutes the object of the Law on Culture approved on 27 May 1999 and promulgated on 28 July 1999. This Law stipulates in many articles the inalienable right to the cultural activities of every citizen "without any distinction as to ethnic or social origin, language, sex, political, religious and other opinions, residence, financial situation, studies, profession and other status"; the right to cultural identity; the right to found or activate within different organizations, federations, branches and international departments of artists.

886. The creation of the conditions necessary for developing the culture of persons belonging to ethnic minorities and for preserving their ethnic identity, including religious, language, and their traditions and customs, their cultural patrimony, is beneficial not only to minorities, but also

for ensuring inter-ethnical harmony and the State integrity, and that is why the ideas included in these rulings have constituted the basis of the statutes belonging to the ethnical-cultural organizations from the country.

887. The Law on public associations came into force in January 1997 (Monitorul Oficial No. 6 of 23 January 1997). So far, 46 ethnical and cultural organizations were officially registered by the Ministry of Justice on the basis of this law. They bring an important contribution to the social and cultural life of the country and help in the implementation of the citizens' rights to preserve, develop and express their cultural, linguistic, religious and ethnic identity guaranteed by the Constitution. The forms of these organizations are diverse: 11 communities, 2 unions, 4 foundations, etc. In total, 18 ethnic minorities have their own associations: Ukrainians, Russians, Bulgarians, Gagauzi, Jewish, Belorusians, Polish, Germans, Gypsies, Greeks, Lithuanians, Armenians, Azers, Tartars, Chuvashes, Italians, Koreans, Uzbeks.

888. Ethnic and cultural organizations are composed of the citizens of Moldova who belong to certain ethnic minorities. They are created voluntarily and are non-governmental and not-for-profit organizations. The Law on public associations does not foresee any limitation of the right of association, depending on the ethnic origin. Similar organizations are created in the places where the Ukrainian, Russian, Bulgarian, Jewish and Polish population is living - in the following cities: Soroca, Bălți, Orhei, Cahul, Comrat, Bender, Tiraspol, etc. These organizations contribute to the preservation and development of ethnic traditions, native language and culture of different minorities, whose representatives live in Moldova. They also contribute to the study of history of their countries of origin, to the development of relations between Moldova and countries that constitute the historical motherland of these minorities. At the same time, ethnical and cultural organizations take part in the popularization and spread of the Moldavian spiritual treasure among ethnic minorities.

889. A relatively new form of organizing persons belonging to ethnic minorities has appeared recently, being represented by the creation of the communities - organizations with social, cultural and humanitarian character. The representatives of Ukrainians, Russians, Bulgarians, Belarusians, Germans, Azers and Armenians have created ethnic communities. These communities do not restrict their activity only to cultural one. They also tend to protect civil, economic, social and religious rights of their members.

890. By the Resolution of the Government of the Republic of Moldova No. 998 of 28 September the structure of the Department of national relations and languages use was approved. Within the framework of the Department, with the Direction of inter-ethnic relations and Direction of external affairs and Diaspora, the Direction of official language promotion and control over the respect of the linguistic legislation is created. One of the attributions of this Direction is the protection of the languages spoken by ethnic minorities of the State.

891. Even though there are concrete realizations in the fields of education, culture and mass media, however, these problems are always in the attention of the Department of national relations and use of languages.

892. The Regulations of the Department foresee collaboration with different international, non-governmental and State institutions aimed at ensuring civic harmony on the whole territory of the country, at protection of the human rights and freedoms, at ensuring politic, economic, social and cultural rights of the citizens, regardless of their ethnic, race, language or religious origin.

893. Taking into consideration these duties, the Department has organized a number of reunions for elaboration of the means necessary for the integration processes among all social groups, regardless of their members' ethnical origin. As examples of such reunions there are:

(a) International Conference "Ethnical mobilization and inter-ethnical integration: sources, factors, spheres", that took place on 21 September 1998 in Chişinău;

(b) Republican Forum "The unity of Moldavian people and problems regarding ethnical identity", that took place on 4 and 5 May 1999;

(c) International Conference "Convention-framework for the protection of ethnic minorities: mechanisms of implementation", that took place on 9-11 November 1999. The Conference was dedicated to the discussion of the problems regarding legal protection of ethnic minorities and prevention of any manifestations of ethnic discrimination. At the meetings held on this occasion in Chişinău, Bălţi and Comrat, specialists from the Republic of Moldova and also international experts took part;

(d) The necessity of elaborating a national strategy for the activities aimed at creating a democratic State based on law became the main issue of discussions held at the new meeting of the specialists, within a scientific conference "Integration processes from the Republic of Moldova: elaboration of the national strategy";

(e) The Department took part in the work of the international seminar initiated by the Mission OSCE from Moldova with the title "The language and education problems in the Republic of Moldova". This forum was held on 18-19 May 2000. Max van der Stoel, the High Commissar of OSCE for Minorities, participated in the work of the seminar;

(f) The Department always gives attention to solving the problems regarding social adaptation of ethnic minorities in conditions of the Republic of Moldova, to preserving and developing multi-cultural representation of different ethnic groups, whose members are citizens of the Republic of Moldova. With this purpose the Department has participated in a number of meetings, round tables and other activities destined to history, language and culture of Ukrainians, Jews, Germans, Gypsies, etc.

(g) Beginning with 1993, "Days destined to Slavonic writing and culture in the Republic of Moldova" are organized annually on the initiative of the Department, with the participation of folk and professional groups, representing different co-inhabiting nations;

(h) Multi-ethnic festivals of children take place annually after the inauguration of the Nationalities House was held on 1 June 1996;

(i) The first International Congress of Jewish people, originated from Moldova living in other countries, took place in June 1999 in Chişinău, constituting an event of international resonance.

894. One of the main duties of the Department of national relations and the use of languages is to support statutory activities of ethnical and cultural organizations. With the purpose of creating conditions necessary for the activity of ethnical and cultural structures from the Republic of Moldova, Nationalities House was inaugurated on 1 June 1996 within the framework of the Department. Twenty-six minorities' associations have their headquarters within the Nationalities House. The conference halls and study lodges are used for different activities of ethnic and cultural groups: "round tables", seminars, competitions, exhibitions of fine arts and others.

895. Non-governmental organizations of different categories (economic, cultural, sport, scientific, etc.), registered in the country, have an important role in the inter-ethnic collaboration.

896. The new registration of all non-governmental organizations of national rank took place at the Ministry of Justice recently.

897. According to the information provided by the National Centre of Assistance and Information of the non-governmental organizations from the Republic of Moldova "Contact", at the moment there are 585 non-governmental organizations (NGOs) in Moldova. The main spheres of their activity are: culture (22.14 per cent), education (20.41 per cent), human rights, including economic rights (8.82 per cent), international rights (7.43 per cent), etc.

898. The increase in the number of non-governmental organizations is a positive factor for a society that tends to become a truly democratic State.

899. The principles of the activity performed by the non-governmental organizations are centred on human rights, free access to information, tolerance and solidarity of people, their equality and responsibility towards the State laws.

900. Ethnic minorities have the possibility of developing their traditional culture, art, of carrying on activities within different forms of the intellectual creation on the basis of the principle of equality and universality of the cultural legislation.

901. At the moment, in the majority of the educational artistic institutions there are groups where instruction is performed in the Russian language for those not speaking the State language, the Music Lyceum "Serghei Rahmaninov" has a programme of instruction totally in Russian. Annually 50 scholarships are allocated for the preparation of courses for people not speaking the State language from Romania. The University of Arts has prepared (with professional instruction in the Russian language) a new troupe for the Dramatic State Theatre "A.P.Cehov" and Puppet Show (theatre) "Licurici" (a troupe in Russian language).

902. There are 30 amateur folk theatres working in the Republic. Also there is a specific form of folk dramaturgy in Moldova, which includes many dramas with historical and legendary, religious and secular content, based on old traditions of the folk belonging to the native nation, and also to the Ukrainian, Russian, Gagauz, Bulgarian and Greek minorities.

903. The process of cultural interference is very developed, and those 600 groups of songs and dances, which activate in many places of the Republic, promote the multi-cultural ideas.

904. Among the most famous establishments of the culture of ethnic minorities there are: Dramatic State Theatre "A.P. Cehov", Russian theatrical Lyceum from Chişinău, Gagauz Theatre "M. Ciachir" (Comrat), Cultural Centre "O. Panov" (Taraclia), etc.; the following artistic groups: the group of Russian instruments, conducted by V. Rahmanov, folk group "Cadînja", folk group "Ucrainocica", etc.

905. Traditional festivals "Nufărul alb" also have an important role, taking place traditionally in Cahul, annual festival "Mărţişor" (lasts 10 days in Chişinău and in other cities), "Crizantema de argint" (a competition of romances, and the winner of this competition obtains the right to participate in the competition "Crizantema de aur" from Romania).

906. Masleniţa, Topenie Mojani, Novruz Bairam are among the holidays of the ethnic minorities that take place every year.

907. Many manifestations that take place with the participation of the representatives of different co-inhabiting ethnic groups became a beautiful tradition. Thus, "The day of the city" is celebrated in Chişinău every year. All cultural institutions from the city participate in this manifestation. Also many cultural manifestations take place in the cities and villages on the occasion of the church holidays.

908. All these cultural communions - unions of creation, cultural non-governmental associations, shows, music, artistic education institutions, cultural associations of the co-inhabiting ethnic groups - are working on the basis of their own statutes, each of these documents containing substantial provisions of the cultural interference and promotion of inter-cultural harmony, which constitute the reason of their creation itself.

909. Cultural interference is a phenomenon which needs a profound analysis of specialists, because it constitutes an important link of approaching and spiritual enrichment of all ethnic groups from the Republic of Moldova, facilitating at the same time the process of the social integration.

910. Under the soviet totalitarian regime, the Gagauz minority did not have a national school, the Gagauz language was neglected, and generally there had been done almost nothing for the development of the Gagauz culture. Educational, instructive and cultural processes were carried on in the Russian language. The Administrative Territorial Unity (union) Gagauzia is a cogent example of the rebirth of the culture and ethnic traditions, and also of the integration in the social and political environment of the Republic of Mo!dova.

911. The original national Gagauz folk is preserved within the villages populated by Gagauzi, and it is studied by the scientists. Folk music and choreography, applied arts and traditional handicrafts are developed. There are also some museums that keep models of material and spiritual culture of the Gagauzi in certain villages.

912. A State University with about 1,500 students is working in Comrat. Gagauz secondary and high schools are created. The local specific together with the modern didactic requirements are taken into consideration in the educational programmes of the Gagauz schools.

913. A Gagauz theatre was founded in the city Ciadîr-Lunga, two newspapers and one magazine are published in the Gagauz language, and also a magazine for children - published as an annex.

914. Twenty-seven cultural clubs (hostels), 57 libraries, 15 artistic educational institutions and 4 museums are working in the Administrative Territorial Union Gagauzia. One hundred and forty-seven amateur artistic groups activate within the institutions mentioned above, and 17 of them have the title of the artistic "model" groups. The activity of these groups creates the proper framework for the perseverance and utilization of the genuine folk, customs and ethnic traditions of this minority group.

915. The Decree of the President of the Republic regarding certain measures for developing the national culture of the Bulgarian population from the Republic of Moldova (30 March 1992), the Regulation of the Government of the Republic of Moldova regarding the development of the national culture of the Bulgarian population from the Republic of Moldova (23 June 1992), many activities within the sphere of Bulgarian education, culture, art and in many other spheres - have played a positive role. All these actions have positively influenced both inter-ethnic relations within the country and also inter-State and inter-governmental relations between Moldova and Bulgaria.

916. In the first years of existence of the Republic of Moldova, the leaders of the State have supported the idea of creating a district centre Taraclia (with the majority of the population - of Bulgarian origin), and this was registered in the Presidential Decree of 30 March 1992.

917. There are 7 Russian groups (bands) with the title "model" functioning in the cities Anenii Noi, Basarabeasca, Camenca, Taraclia and Bălți, and more than 20 groups without any title, with over 950 participants. They take part in all Russian traditional folk holidays, such as: "Holiday of the Slavonic writing", "Days of the Russian culture in the Republic of Moldova".

918. International festivals, days of culture, conferences and symposiums in this sphere - all of them equally contribute to the change of mentality, to fighting the prejudices, to promotion of harmony, tolerance and friendship among ethnic groups.

919. The Cultural Centre of Israel began its activity in 1997 in Chişinău, on the basis of the "Protocol between the Government of the Republic of Moldova and the Government of Israel regarding the mutual foundation of Cultural Centres and their activities". Enlargement of the sphere of use of the Hebrew language, restoration and development of the culture and traditions are the main directions of the activity carried out by the Association of Hebrew organizations and communities from the Republic of Moldova. There are two Hebrew comprehensive public schools, eight Sunday schools, and the city library "Mangher". Also, two Hebrew newspapers "Our voice" and "Doreinu" are published, and there are a radio broadcast "Hebrew life" and a television programme "On the Hebrew street".

920. Necessary efforts are presently undertaken to found a Centre of Russian Culture in Chisinau.

921. The Law on libraries was promulgated in December 1994 (Official Monitor No. 2 of 12 January 1994). According to this law a special counsel is established having the aim to promote a unified national policy in the sphere of "library economics" (art. 16). At the present moment six libraries belonging to ethnic minorities function in Chişinău according to this law.

922. Moldova has nine libraries with books in the Russian language exclusively. Public libraries in the Republic of Moldova possess an important amount of books edited in the Russian language (12,028,600 items, or 58 per cent, of the total book fund of public libraries).

923. The history and culture of ethnic minorities is studied at the Institute of inter-ethnical research within the Academy of Sciences of Moldova. The Institute comprises five departments employing specialists in Ukrainian, Russian, Bulgarian, Jewish and Gagauzi history and culture.

924. The National Museum of Ethnography and Natural History possesses valuable Gagauzi, Bulgarian, Russian and Ukrainian ethnographic collections.

925. Both persons belonging to ethnic minorities and non-governmental organizations have the possibility to freely function on national and international levels.

926. The Department of national relations and language use facilitates contacts with persons and public associations from abroad, especially from Ukraine and Romania. Throughout the years links were established between Ukrainian organizations from Moldova and public associations from Ukraine. Lipoveni (old-rite orthodox) from Moldova have established contacts with the representatives of the same religion from Romania. The Department establishes contacts with the Moldovan Diaspora from abroad. Links are thus established with Moldovan associations from ex-USSR, as well as with a number of personalities residing in the west, who originate from Moldova. Relations of collaboration and trans-border relations are developing (with Romania and Ukraine).

927. Article 31 of the Constitution of Moldova guarantees freedom of conscience. At the same time article 1 of the Law on cults No. 979-XII of 24 March 1992 stipulates: "every person has the freedom of thought, conscience and religion. This right has to be manifested with mutual tolerance and respect and comprises the freedom to change religion or beliefs, to profess religion or beliefs individually or in a group, privately or in public through cult, education, practice and rituals.

928. The exercise of the right to freely manifest religion or beliefs can be constrained according to the law and only in cases when, in a democratic society, it is needed for public security, public order, protection of health and morals or to protect rights and freedoms of other persons."

929. According to the above-mentioned law the State encourages the social, moral, cultural and charitable activity of cults.

930. The cults recognized by the State and registered according to the law have the exclusive right to:

(a) manufacture and sell cult objects specific to that cult;

(b) establish media bodies for believers, to edit and sell books of cult, theological and church character, necessary for the cult's practice;

(c) set prices for pilgrimage and tourism to cult places;

(d) organize, in Moldova or abroad, exhibitions of cult objects, including public sales.

The cults use in their manifestations and activity the native language of believers or traditional cult's language.

931. In order to prevent unjustified interference on the part of the State into the activity of cults, legally recognized in the Republic of Moldova, also to intensify the control of cult legislation observance, the State Service for Cult Issues was founded within the Government of Moldova according to Presidential Decree No. 148 of 28 September 1993. This Service has consulting, informational and expertise functions in the sphere of cult issues and also functions of control of cult legislation enforcement.

932. The main objectives of the Service are:

- supervision of cult legislation enforcement;
- registration of cults and religious communities;
- conflict resolution both internal and between cults;
- creation of favourable conditions for the organization and functioning of cults and religious communities;
- improvement of legislation in the sphere of cults;
- processing of documentation regarding the recognition by the Government of organization charters of religious communities;
- hearing of citizens for the purpose of clearing up issues specific to religious communities, in order to subsequently inform bodies competent in the resolution of these issues;
- elaboration of public programmes with the participation of clergy members.

933. The State Service for Cult Issues in its activity is guided by the following legal acts:

- Constitution of the Republic of Moldova;
- Government Regulation No. 995 of 28 October and No. 1742 of 2 August regarding the allotment of land to Condrița, Hâncu monasteries, Hermitage "St. Dumitru" and to the Catholic church from Bălți;
- Government Regulation No. 302 of 14 April regarding approval of amendments and completions to the Charter of the inter-cult society of Christian doctors "Emanuil";
- Government Regulation No. 373 of 29 April regarding the establishment of the Rehabilitation Fund of the Cathedral "Nasterea Maicii Domnului" Chișinău;
- Government Regulation No. 627 of 5 July 1999 regarding the Charter of the Evangelical Lutheran Church from Moldova.

934. At the present moment there are 7 cults and 12 associations and religious communities officially registered in the Republic of Moldova. The largest share belongs to the Orthodox Church (1,017 communities as of 1 January 2000), followed by the Union of Churches of Evangelical Baptist Christians (a total of 370 communities), Union of Churches of Christians of Evangelical Faith (Pentecostal cult) - 194 communities; Religious Organization of Jehovah's Witnesses (163 communities), Church (Conference Union) of Seventh Day Adventists (120 communities). Other communities, being component parts of various cults, have a very small percentage (1 to 8 units). The latter comprise: Mosaic religion, Union of Communities of Spiritual Molocani Christians, Society of Krishna Conscience, Bahai Cult, Union of communities of Messianic Jews, Evangelical-Lutheran Church etc.

935. Summarizing the stated information, it can be concluded that cultural institutions and associations from the Republic of Moldova function in a balanced legal framework, preventing discrimination of any kind and contributing to the promotion of inter-ethnical and inter-cultural understanding. Possible preconceptions of this kind arise more as a result of certain common rather than ethical problems - financial austerity and bad social and economic conditions.

References

936. This report utilized documents and statistical data of the following governmental bodies: Ministry of Economy and Reforms, Ministry of Internal Affairs, Ministry of Finances, Ministry of Labour, Social Protection and Family, Ministry of Health, Ministry of Education and Culture, Department of National Relations and Language Use, Academy of Sciences of Moldova, Department of Statistical and Sociological Analysis, State Service for Cult Issues. Also, resources of the following organizations from Moldova were consulted: Human Rights Centre of Moldova, UNICEF, UNHCFR, UNDP.